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INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR DIRECTOR, ADVISORY, INSOLVENCY, AND QUALITY  
DIRECTOR, CAMPUS COMPLIANCE SERVICES

FROM: Laura Hostelley /s/ Laura Hostelley  
Acting Director, Collection Policy

John H. Imhoff, Jr. /s/ John H. Imhoff, Jr.  
Director, Specialty Programs

SUBJECT: Interim Guidance for Internal Revenue Code Section 6166  
Election Estate Tax Cases

The purpose of this memorandum is to reflect changes in responsibilities and provide updated procedures for the processing estate tax cases for which the executor of the estate has elected deferred installment payment of estate tax pursuant to Internal Revenue Code Section 6166. Please ensure that this information is distributed to all affected employees within your organization. Effective immediately, Advisory will determine on a case-by-case basis whether a bond or the special estate tax lien under IRC § 6324A is required and will negotiate the bond or special lien for all IRC § 6166 cases once Estate and Gift has determined if the estate qualifies for the election. The following details the responsibilities of Advisory, Estate and Gift Exam, and Estate and Gift Campus Operations in processing these cases.

Final changes will be incorporated into the Internal Revenue Manual (IRM) 5.5.8, Estate Tax Liens, IRM 4.25.1, Estate and Gift Tax Examination, and IRM 4.25.2, Campus Procedure for Estate Tax, by June 30, 2010.

If you have any questions, please call me or a member of your staff may contact Cindy Ocmand, Collection Policy or Josian Antoine, Estate and Gift Tax Policy.

Attachment

cc: [www.irs.gov](http://www.irs.gov)

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PROCEDURES FOR ESTABLISHING INSTALLMENT PAYMENTS AND REQUESTING BONDS OR SPECIAL LIENS WITH AN IRC § 6166 INSTALLMENT ELECTION

**Section 1. E&G Campus Procedures Establishing the IRC § 6166 Installment Election Account and Determining Initial Qualification for Installment Election**

- (1) When coding estate tax returns with an IRC § 6166 Installment Election, Document Analysis will input payment indicator 1 which will generate an installment indicator on a CP-191.
- (2) Document Analysis will forward the return to Cincinnati Campus Estate and Gift Tax Operations (E&G Campus) for preparation of the Form 4349, *Computation of Estate Tax Due with Return and Annual Installments*. E&G Campus shall complete its review of the § 6166 election and preparation of Form 4349 within 10 days of receipt. E&G Campus shall copy all necessary information to set-up the IRC § 6166 case file. This information includes pages 1, 2, and 3 of the Form 706 return along with all schedules that contain information regarding the closely held business which qualifies for the IRC § 6166 election. A copy of the Notice of Election will also be retained for the IRC § 6166 case file. A copy of any additional information obtained from the estate will be placed in the original IRC § 6166 case file and a copy shall also be associated with the original Form 706. The folder is filed chronologically by the original due date as “**Installment Pending.**” If the installment date is other than the due date, cross references will be needed. A copy of the Form 4349 is attached to the back of the first page of the Form 706. The return is transferred to Document Analysis to complete the processing.
- (3) E&G Campus will make a preliminary determination if the estate qualifies for the installment payment privilege. The estate qualifies if the election was made on a timely filed return, including extensions of time to file the return; the value of the decedent's interest in the closely held business exceeds 35 percent of the adjusted gross estate; and the decedent was a United States citizen or resident. E&G Campus also reviews the taxpayer's election to determine the deferred tax, the tax due with the return, the number of years over which the estate tax will be deferred, and the installment due date. E&G Campus will establish the account on the IRC § 6166 installment database.
- (4) If the estate's election made with the return differs from the amount on the Form 4349 (line 8b), E&G Campus will contact the taxpayer to explain the adjustments to the deferred tax and to verify the information on the Form 4349. If the estate agrees to the changes to the deferred tax, the E&G Campus will establish the account on the IRC § 6166 installment database according to the recalculated figures. If taxpayer does not agree with the adjusted deferral period and installment amount, document the installment file and forward a copy for association with the Form 706. If the estate disagrees,

interest will be computed using the estate's deferral period and installment amount until a final determination is made by Estate and Gift Tax field group (E&G Exam), Appeals, or a court. E&G Campus shall assure that a copy of the correspondence is associated with the estate tax return prior to classification and recommend that the return is selected for examination. If, after examination, E&G Exam changes either the deferral period or installment amount, it will be necessary to recompute the IRC § 6166 interest for each installment.

- (5) If the estate elects a 14-year deferral period but (b)(7), (b)(8), or (b)(10) applies to the closely held business, then the deferral period on the account must be adjusted accordingly. E&G Campus will prepare Letter 2568C selecting the appropriate paragraphs regarding the preliminary determination adjusting the account; informing the estate which subsection of IRC § 6166 applies, for example, (b)(7), (b)(8), or (b)(10); and informing the estate of its appeal rights.
- (6) When the return has posted, a CP-191 will generate. E&G Campus reviews the CP-191 and Form 4349 for the correct assessment of tax. If the estate qualifies for the installment election, E&G Campus will prepare and issue Letter 2568C, Follow-up Letter for Installment Billing: Form 706, indicating the total tax, deferred tax, non-deferred tax and the annual principal installment amounts. The Letter 2568C notifies the estate that the election has been received, but that it is subject to review by E&G Exam for qualification under IRC § 6166, and by Advisory for a case-by-case determination of whether a bond or an IRC § 6324A lien will be required as security for the deferred estate tax.
- (7) Normal installment billing procedures shall occur annually on all estates, including those in litigation. The figures for the billing shall be from the original return or the agreed examination report.
- (8) The account will not be placed in accelerated status if the delinquent amount (principal or interest) is paid within six months after the installment due date. However, the special interest rate on the installments will not be allowed on the defaulted payments after the due date of the installment. Interest is computed on these installments at the current rate, and Late Installment (LI) Penalty of 5 percent per month (or fraction thereof) applied from the due date of the installment, including any extension of time, to date of payment.
- (9) A CP-191, will generate prior to yearly installment due date (each anniversary of return due date). The CP-191 is to assist in the review of the account that has an installment due during the fourth week following the review.

## **Section 2. Campus Determines Estate Does Not Qualify for the IRC § 6166 Election.**

- (1) If E&G Campus determines that the **estate does not qualify to make the election** for any reason, the estate is not entitled to the installment payment privilege. The E&G Campus shall process the election as follows:
  - A. Complete Form 4349 indicating why the estate does not qualify for the installment election privilege. The estate has the ability to appeal the E&G Campus' denial of the IRC § 6166 election. Attach a copy of Form 4349 to the back of page 1 of the Form 706.
  - B. If the Form 706 has not yet been transferred back to Document Analysis, attach a memo to the Form 706 requesting that the PIC be changed to zero (0). This will keep the account from being restricted. Enter the account on the § 6166 installment database indicating that the election has been denied. Maintain the case file, indicating all actions. Monitor the account for the TC 150 to post.
  - C. **If the account initially goes into Status 21** issue Letter 950-H – Preliminary Internal Revenue Code § 6166 Determination Letter and select the appropriate options. The Letter 950-H shall be issued certified mail, return receipt requested. Monitor the account for a reply. Suspend for 45 days.
    1. Input a STAUP on IDRS for fifteen cycles to take account from notice Status 21 to Status 58.
    2. The Estate has 30 days to respond to the Letter 950-H.
    3. The Team Manager may grant an extension of time to respond to the Letter 950-H for up to 30 days. In unusual cases if circumstances warrant, the Team Manager may grant an additional extension of time. Such approval and the reason for granting the additional extension must be documented in the case history.
    4. **If the estate fails to appeal the preliminary determination** within the 30-day period allowed in Letter 950-H, or as extended, or if the estate sends an untimely post-marked protest, the Letter 950-H, Preliminary § 6166 Determination Letter, becomes a final determination letter. Prepare and issue Letter 6335-F, Notice and Demand for Payment of Entire Estate Tax Liability. Letter 6335-F shall be mailed certified mail, return receipt requested. The 6335-F shall reflect the account balance plus any additional penalties and interest as of the 23c date. Compute and assess additional statutory interest from the last

interest to date, to the 23c date. Compute and assess FTP penalties, as applicable, on the unpaid tax to the 23c date. Input a TC 270 for the calculated amount of the FTP penalty. Input the TC 270 and TC 340 using a Hold Code 0. Monitor the account for the adjustments to post. The Letter 6335F shall be dated and mailed on the 23c date. When the account goes to Status 58, accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case.

5. **If the estate provides a written protest** in response to the Letter 950-H, review the estate's protest. If the Service agrees with the estate, complete the set-up procedures for the installment election.
6. If after reviewing the protest letter, E&G Campus still believes that the estate does not qualify for the election. E&G Campus shall prepare and send to Appeals within 30 days from the postmark date of the protest letter an auxiliary file containing the following:
  - a. Copy of Pages 1, 2, and 3 of the Form 706 and the schedules relating to the closely held business in the E&G Campus Installment File,
  - b. Notice of Section 6166 election,
  - c. Form 4349,
  - d. Any Forms 4768,
  - e. All correspondence between the Service and the taxpayer,
  - f. Case history,
  - g. Letter 950-H, and;
  - h. Protest from taxpayer.
7. Transfer the auxiliary file for review to the Office of Appeals for the state of the decedent's last domicile using the case routing list on the Appeal's website, <http://appeals.web.irs.gov/APS/bystate2.htm>, with the understanding the case may be transferred to another Appeals Office based on inventory needs. Prepare Form 3210 forwarding case to Office of Appeals notating "Type of Case IRC §6166 – Qualification – This is an emerging issue. Please check the Appeals Technical Guidance issue locator on the Appeals webpage for further information." Input history item on IDRS that indicates the protest has been sent to Appeals.

8. Input a STAUP on the account to hold notices awaiting Appeals' decision and monitor the account awaiting Appeals' decision.
9. The Appeals Office will send the case file and a copy of the Appeals Case Memorandum to E&G Campus once a decision is final, so that E&G Campus can proceed with billing. If no response, the E&G Campus will follow-up with Appeals in 90 days. E&G Campus may contact the Appeals' Account Resolution Specialist at (559) 456-5931 to locate case or update status.
10. Upon receipt of Letter 3570 or Letter 3571 from Appeals' indicating that the election is denied, E&G Campus must prepare to terminate the election. Prepare and issue Letter 6335-F, and send certified mail, return receipt requested. E&G Campus will compute statutory interest on any underpaid amount to the 23c date. Compute and assess FTP penalties, as applicable on the unpaid tax. Input the TC 270 and TC 340. The Letter 6335-F shall be mailed on the 23c date. Suspend the case for 105 days from the date of the Letter 3570 or Letter 3571. Contact Appeals to determine if a petition with the Tax Court has been filed. If Appeals verifies that a petition has not been filed, accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case. If a petition has been filed, periodically monitor account for resolution. Inform the auditing attorney of transpiring actions within the case. Associate a copy of any pertinent information with the original return.

**D. If the account is in Status 14**

1. Compute Failure to File, if applicable, and Failure to Pay Penalties (per IRM 20.1) if applicable, from the due date of the return, or extended date, to the 23c date of the TC150.
2. Compute interest as required (per IRM 20.2). Interest from the due date of the return (disregarding extensions of time to file the return) to the 23c date of the TC150. Input on IDRS, TC 160 and TC 270 for the penalty amounts and TC 340 for the interest amounts. (HOLD CODE 3)
3. Issue Letter 950-H – Preliminary § 6166 Determination and select the appropriate options. The Letter 950-H shall be issued certified mail, return receipt requested. Monitor the account for a reply. Suspend for 45 days.
4. The Estate has 30 days to respond to the Letter 950-H.

5. The Team Manager may grant an extension of time to respond to the Letter 950-H for up to 30 days. In unusual cases if circumstances warrant, the Team Manager may grant an additional extension of time. Such approval and the reason for granting the additional extension must be documented in the case history.
6. **If the estate fails to appeal the preliminary determination** within the 30-day period allowed in Letter 950-H, or as extended, or if the estate sends an untimely post-marked protest, the Letter 950-H, Preliminary § 6166 Determination Letter, becomes a final determination letter. Prepare and issue Letter 6335-F, Notice and Demand for Payment of Entire Estate Tax Liability. Letter 6335-F shall be mailed certified mail, return receipt requested. The 6335-F shall reflect the account balance plus any additional penalties and interest as of the 23c date. Compute and assess additional statutory interest from the last interest to date, to the 23c date. Compute and assess FTP penalties, as applicable, on the unpaid tax to the 23c date. Input a TC 270 for the calculated amount of the FTP penalty. Input a TC 489 at the same time as the TC 270 and TC 340 using a Hold Code 0, to terminate the deferred status. Monitor the account for the adjustments to post and Status 21. The Letter 6335-F shall be dated and mailed on the 23c date. When the account goes to Status 21, accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case.
7. **If the estate provides a written protest** in response to the Letter 950-H, review the estate's protest. If the Service agrees with the estate, complete the set-up procedures for the installment election.
8. If after reviewing the protest letter, E&G Campus still believes that the estate does not qualify for the election. E&G Campus shall prepare and send to Appeals within 30 days from the postmark date of the protest letter an auxiliary file containing the following:
  - a. Copy of Pages 1, 2, and 3 of the Form 706 and the schedules relating to the closely held business in the E&G Campus Installment File,
  - b. Notice of Section 6166 election,
  - c. Form 4349,



- d. Any Forms 4768,
  - e. All correspondence between the Service and the taxpayer,
  - f. Case history,
  - g. Letter 950-H, and;
  - h. Protest from taxpayer.
9. Transfer the auxiliary file for review to the Office of Appeals for the state of the decedent's last domicile using the case routing list on the Appeal's website, <http://appeals.web.irs.gov/APS/bystate2.htm>, with the understanding the case may be transferred to another Appeals Office based on inventory needs. Prepare Form 3210 forwarding case to Office of Appeals notating "Type of Case IRC § 6166 – Qualification." – This is an emerging issue. Please check the Appeals Technical Guidance issue locator on the Appeals webpage for further information. Input history item on IDRS that indicates the protest has been sent to Appeals.
  10. The Appeals Office will send the case file and a copy of the Appeals Case Memorandum to E&G Campus once a decision is final, so that E&G Campus can proceed with billing. If no response, the E&G Campus will follow-up with Appeals in 90 days. E&G Campus may contact the Appeals' Account Resolution Specialist at (559) 456-5931 to locate case or update status.
  11. Upon receipt of Letter 3570 or Letter 3571 from Appeals' indicating that the election is denied, E&G Campus must prepare to terminate the election. Prepare and issue Letter 6335-F, and send certified mail, return receipt requested. E&G Campus will compute statutory interest on any underpaid amount to the 23c date. Compute and assess FTP penalties, as applicable on the unpaid tax. The Letter 6335-F shall be mailed on the 23c date. Suspend the case for 105 days from the date of the Letter 3570 or Letter 3571. Contact Appeals to determine if a petition with the Tax Court has been filed. If Appeals verifies that a petition has not been filed, input a TC 489 and accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case. If a petition has been filed, periodically monitor account for resolution. Do not remove account from Status 14 until there is resolution of the Tax Court case. Inform the auditing attorney of

transpiring actions within the case. Associate a copy of any pertinent information with the original return.

**Section 3. Estate Qualifies for IRC § 6166 Election and Fails to Pay or Underpays the Non-Deferred Tax**

- (1) If the taxpayer qualifies for the installment payment privilege, but **fails to pay the entire non-deferred tax amount due with the return** and does not have an extension of time to pay such amount under IRC § 6161 (line 8b of Form 4349), E&G Campus shall:
  - A. Compute Failure to Pay (FTP) Penalty on the non-deferred tax from the due date to the date of payment (or Notice and Demand Date, if the payment has not been received). Input TC 270 for the FTP Penalty on IDRS.
  - B. Compute interest (at the prevailing rate) on the non-deferred tax from the due date to the date of payment and/or Notice and Demand date. Input TC 340 for the interest on IDRS.
  - C. Prepare and issue Letter 2568C, Follow-up Letter for Installment Billing: Form 706, for any unpaid tax, penalty and interest. Suspend case for 45 days.
  - D. **If payment is timely**, (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), E&G Campus shall refile the case in the “**Installment Pending**” file.
  - E. **If payment of non-deferred tax is not received**, within 45 days E&G Campus shall;
    1. Compute Failure to Pay (FTP) Penalty on the unpaid non-deferred tax from the due date for payment (including extensions) to the payment due date listed in Letter 6335. Input TC 270 for the additional calculated amount of the FTP Penalty on IDRS.
    2. Compute interest (at the prevailing rate) on the amount due from the payment due date of the Letter 2568C to the payment due date of the Letter 6335. Input TC 340 for the interest on IDRS.
    3. Prepare and issue Letter 6335, by certified mail, return receipt requested. Suspend case for 45 days.
    4. If after 45 days payment has not been received, follow the procedures in paragraph G below.

F. **If payment is late**, after the Letter 2568c was issued, proceed as follows:

1. Compute Failure to Pay (FTP) Penalty on the non-deferred tax from the due date for payment (including extensions) to the date non-deferred tax is received. Input TC 270 for the additional calculated amount of the FTP Penalty on IDRS.
2. Compute interest (at the prevailing rate) on the amount due from the date of the Letter 2568C, to the date of payment, plus accrued interest on interest to the payment due date of the Letter 6335. Input TC 340 for the interest on IDRS.
3. Prepare and issue Letter 6335, by certified mail, return receipt requested. Suspense case for 45 days.
4. If after 45 days payment has not been received, follow the procedures in paragraph G below.

G. **If the taxpayer fails to make the payment** after issuance of the Letter 6335, E&G Campus shall:

1. Make copies of Letter 6335.
2. Compute Failure to Pay (FTP) Penalty on the non-deferred tax from the payment due date (including extensions) to 60 days past the date forwarded to the appropriate Advisory office. Input TC 270 for the additional calculated amount of the FTP Penalty on IDRS.
3. Compute interest (at the prevailing rate) on the amount due from the payment due date of Letter 6335, to 60 days past the date forwarded to the appropriate Advisory office. Input TC 340 for the interest on IDRS.
4. Prepare Form 2209 annotating that non-deferred tax needs to be collected and attach copies of Letter 6335. Forward to the Group Manager of the Estate Tax Lien Advisory Group utilizing a Form 3210. Annotate accrued penalty and interest on the Form 3210.
5. If no response is received from Advisory within 90 days, E&G Campus shall contact Advisory to determine status.

- (2) If taxpayer's **election made with the return differs from the amount on the Form 4349** (line 8b), and the taxpayer has not yet been sent Letter 2568C, additional tax is due:

- A. Compute interest (at the prevailing rate) on the unpaid tax from the due date to the payment due date of Letter 2568C. Input TC 340 for the interest on IDRS.
- B. Prepare and issue Letter 2568C for the unpaid tax and interest. E&G Campus will prepare Letter 2568C selecting the appropriate paragraphs regarding the preliminary determination adjusting the account.
- C. If the estate's election made with the return differs from the amount on the Form 4349 (line 8b), E&G Campus will contact the taxpayer to explain the adjustments to the deferred tax and to verify the information on the Form 4349. If the estate agrees to the changes to the deferred tax, the E&G Campus will establish the account on the § 6166 installment database according to the recalculated figures. If taxpayer does not agree with the adjusted deferral period and installment amount, document the installment file and forward a copy for association with the Form 706. If the estate disagrees, interest will be computed using the estate's deferral period and installment amount until a final determination is made by E&G Exam, Appeals, or a court. E&G Campus shall assure that a copy of the correspondence is associated with the estate tax return prior to classification and recommend that the return is selected for examination. If, after examination, E&G Exam changes either the deferral period or installment amount, it will be necessary to recompute the IRC § 6166 interest for each installment.

#### **Section 4. Interest-Only Installment Payment Period - General Process**

- (1) Generally when an estate elects to pay the estate tax in installments under IRC § 6166, the estate will pay only interest on the deferred estate tax amount for the first four years of the deferral period. Estates, however, that make an election under IRC § 6166(b)(7) or own an interest in the types of businesses described under IRC § 6166(b)(8) or (b)(10) do not qualify for this interest only deferral period and must begin paying installments of tax in the first year of the election. Verify that the business is not the type of business described in either IRC § 6166(b)(7), (b)(8), or (b)(10). See IRM 4.25.2.1.5(6), IRM 4.25.2.1.9, and IRM 4.25.2.1.10.
- (2) Provided the business is not the type described in IRC § 6166(b)(8) or (b)(10) and the estate did not make the election under IRC § 6166(b)(7), the estate shall be billed for **interest only** during this four year deferral period.
- (3) Considering the data on IDRS, the Form 4349, and the installment billing file E&G Campus shall compute interest on the entire deferred balance due from the prior installment date to the pending installment date, considering any interim payment. Refer to IRM 4.25.2.1.13.

- (4) E&G Campus shall prepare and issue Letter 249C, Installment or Interest Due: Form 706 (revised November 2007) with the interest amount, approximately 30 days prior to the anniversary date and input TC 340 for interest on IDRS using Hold Code 3.
- (5) E&G Campus shall enclose copy of Letter 249C in folder and file in separate **"Payment Pending"** file. Suspense for 45 days from the installment date.
- (6) Upon receipt of CP-191 indicating payment of installment, E&G Campus shall ensure that the payment was made timely (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), and in the amount billed. E&G Campus will review the returned Letter 249C for proper signature of executor on the affidavit and any indication of an address change. If the estate has executed a section 6324A lien agreement (Form 13925), the designated agent on the lien agreement must sign Letter 249C. Check the file to determine if the estate has submitted a lien agreement or Form 13925. If change is indicated, E&G Campus shall input the new address on IDRS and the installment database. If the executor or personal representative has changed, verify that letter of testamentary or relevant court document is included. If the state has closed the probate proceeding and discharged the executor, any person in possession of the property of the estate may sign the certification. The returned 249C will be enclosed in the case folder. A copy of CP-191 shall be analyzed and compared to the IRC § 6166 case file worksheet for accuracy prior to being enclosed in the case folder and refiled in the **"Installment Pending"** file.
- (7) If the estate fails to return the 249C, refer to IRM 4.25.2.1.16.

#### **Section 5. Interest-Only Installment Payment - Paid Late**

- (1) If the CP-191 indicates that the **payment was late**, E&G Campus shall proceed as follows:
  - A. Compute Late Installment (LI) Penalty on the late payment from the installment due date (considering any extension of time to pay) to the date of payment. Input TC 240 and LI Penalty on IDRS.
  - B. Compute interest (at the prevailing rate) from the installment due date to the payment date, plus accrued interest on the additional interest to the payment due date. Input TC 340 for interest on IDRS.
  - C. Prepare and issue Letter 6335 for the LI Penalty and interest. Send by certified mail, return receipt requested. Suspense for 45 days.
- (2) If payment is received timely (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), refile the case in the **"Installment Pending"** file.

- (3) If taxpayer fails to pay LI Penalty and delinquent interest, within 45 days of the date the first Letter 6335 was issued, E&G Campus shall:
  - A. Compute interest (at the prevailing rate) on the total amount due from the payment due date of the first notice (Letter 6335) to the payment due date of the second notice (Letter 6335). Input TC 340 for interest on IDRS.
  - B. Prepare and issue Letter 6335 as the second notice. Send by certified mail, return receipt requested. Suspense for 45 days.
- (4) If taxpayer fails to pay LI Penalty and delinquent interest, within 45 days of the date the second Letter 6335 was issued, E&G Campus shall:
  - A. Prepare a Form 3210 annotating the issues including a delinquent payment on 6166 election and attach copies of all prior billings. Forward to the appropriate Advisory Office. This Form 3210 is for informational purposes only. Place copy of the Form 3210 in the case folder. (For Illinois Decedents only, see 4.25.2.1.16(14).)
  - B. Compute interest (at the prevailing rate) on the total amount due from the payment due date of the second notice (Letter 6335) to the payment due date of the third notice (Letter 6335). Input TC 340 for interest on IDRS.
  - C. Prepare and issue Letter 6335 as the third notice. Send by certified mail, return receipt requested. Suspense for 45 days.
  - D. Continue to issue the Letter 6335 until the LI Penalty and delinquent interest is paid in full.
- (5) If taxpayer fails to make sufficient payment, refer to and follow the procedures outlined in LEM 4.25.2.1.7.

#### **Section 6. Interest-Only Installment Payments – Failure to Pay Interest**

- (1) If the **taxpayer fails to make the interest payment**, CP-191 will not generate. A manual review of the payment pending file will be necessary 45 days after the installment due date. If the review shows any unpaid installment, research IDRS for any misapplied payments. Research for a request of an extension of time to pay the installment (Form 4768). If no payment or extension is located, E&G Campus shall:
  - A. Compute Late Installment Penalty (LI Penalty) on the unpaid interest installment at 5 percent per month (or fraction thereof) from the installment due date (considering any extension of time to pay) to the payment due date on the first notice (Letter 6335). Input TC 240 for LI Penalty on IDRS.

- B. Compute interest (at the prevailing rate) on the unpaid interest installment from the installment due date to the payment due date on the first notice (Letter 6335). Input TC 340 for interest on IDRS.
  - C. Prepare and issue Letter 6335 for the past due interest installment, LI Penalty, and accrued interest. Send by certified mail, return receipt requested, for the unpaid interest. Suspense for 45 days.
- (2) If payment is not received, within 45 days of first notice (Letter 6335), E&G Campus shall:
  - A. Compute LI Penalty on the portion of the unpaid installment at 5 percent per month (or fraction thereof) from the installment due date (considering any extensions of time to pay) to the payment due date of the second notice (Letter 6335). Input TC 240 for the additional calculated amount of the LI Penalty on IDRS.
  - B. Compute interest at the prevailing rate, on the total amount due on the first notice, from the payment due date of the first notice to the payment due date of the second notice (Letter 6335). Input TC 340 for interest on IDRS.
  - C. Prepare and issue Letter 6335 for the amounts on the previous Letter 6335 plus accrued penalty and interest as the second notice. Send by certified mail, return receipt requested. Suspense for 45 days.
- (3) If payment is not received timely (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), within 45 days of second notice (Letter 6335), E&G Campus shall:
  - A. Compute LI Penalty on the portion of the unpaid installment at 5 percent per month (or fraction thereof) from the installment due date (considering any extension of time to pay) to the payment due date of the third notice (Letter 6335-T, Final Notice and Demand for Estate Tax Installment Payment). Input TC 240 for the additional calculated amount of the LI Penalty on IDRS.
  - B. Compute interest at the prevailing rate, on the total amount due on the second notice, from the payment due date of the second notice (Letter 6335) to the payment due date of the third notice (Letter 6335-T). Input TC 340 for interest on IDRS.
  - C. Prepare and issue Letter 6335-T for the amounts on the previous Letter 6335 plus, accrued penalty and interest as the third notice. Send by certified mail, return receipt requested. Suspense for 45 days.
- (4) Prepare a Form 3210 informing Advisory that the Letter 6335 or Letter 6335-T has been sent and attach copies. Forward to the appropriate Advisory office.

- (5) If payment is received timely (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), refile the case in the **"Installment Pending"** file.

**NOTE: The Late Installment Penalty is limited to a maximum of 30 percent.**

**NOTE: The account should not be accelerated until six months after the due date of the Installment and notice and demand has been sent (Letter 6335-F).**

- (6) If payment is not received timely (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), within 45 days of the third notice (Letter 6335-T), E&G Campus shall:

- A. **If the decedent died before August 6, 1997**, the estate should not be sent the 950-H letter because the estate does not have the right to appeal or go to Tax Court. Prepare and issue Letter 6335-F, Notice and Demand for Payment of Entire Estate Tax Liability. Instead of selecting either optional paragraph on Letter 6335-F insert the paragraph below, and send certified mail, return receipt requested. The 6335-F shall reflect the account balance (after the TC 241 and TC 341) plus additional interest as of the 23c date and any applicable FTP penalties.

"The above estate defaulted on the IRC § 6166 election because it did not make installment payments as required under the statute. IRC section 6166(g)(3) provides that that we may terminate the election and collect the entire amount of estate tax liability if any payment of principal or interest is not made within 6 months of the due date for the payment (plus any extension of time granted). An installment payment was due more than 6 months ago. Notice and Demand for payment of the installment was sent to you and no payment was received within 6 months of the date the payment was due.

Please pay the **Amount Now Due** as listed above. Failure to pay the amount will result in the imposition of additional interest and penalties.

We may file a Notice of Federal Tax lien pursuant to IRC section 6321 if we have not already done so. We may also pursue collection action against the transferees of the assets of the gross estate.

If you have already paid this installment, please call us immediately at the telephone number shown above. This is a toll free call."

1. Abate the LI Penalty (TC 241) that is associated with this delinquent period. (Late installment penalty is not applicable for accounts that are accelerated.) Input TC 241 to IDRS using a



Hold Code 3. **Do not abate** TC 240 with reference codes. These have been input by other functions.

2. Abate the delinquent interest (TC 341) that is associated with this delinquent period. Input TC 341 to IDRS using a Hold Code 3.
3. Recompute the interest (at the prevailing rate) on the past due installment from the last installment due date, adding any applicable FTP penalties as they were assessed to determine the correct interest now due, to the 23c date. (The 23c date will be extended due to the PDC1.) Compute § 6166 interest on the deferred tax from the previous installment due date to the termination date (the 23c date). Combine the statutory interest and the § 6166 interest amounts together. Input TC 340 for the combined amounts with a posting delay code 1 and a Hold Code 0. Input a TC 489 at the same time as the TC 340 to terminate the deferred status.
4. Prepare a Form 3210 informing Advisory that the Letter 6335-F has been issued notifying the estate of the termination and attach copies of the 6335-F. Forward to the appropriate Advisory Office.
5. Monitor the account for the adjustments to post and Status 21. The Letter 6335-F shall be dated and mailed on the 23c date. When the account goes to Status 21, accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case.

B. **If the decedent died on or after August 6, 1997** prepare and issue Letter 950-H – Preliminary Internal Revenue Code § 6166 Determination Letter, which gives the estate the right to appeal the termination. Letter 950-H shall be mailed certified, return receipt requested.

1. The Letter 950-H shall be dated and mailed to the estate 45 days after the date of the Letter 6335-T. Monitor the account for a reply. Suspend for 45 days.
2. Prepare a Form 3210 informing Advisory that the Letter 950-H has been issued notifying the estate of potential termination within 30 days and attach copies of Letter 950-H and all related billings. Forward to the appropriate Advisory Office. This Form 3210 is for informational purposes only. Place copy of the Form 3210 in the case folder. (For Illinois Decedents only, see IRM 4.25.2.1.16(14).)
3. The Estate has 30 days to respond to the Letter 950-H.

4. The Team Manager may grant an extension of time to respond to the Letter 950-H for up to 30 days. In unusual cases if circumstances warrant, the Team Manager may grant an additional extension of time. Such approval and the reason for granting the additional extension must be documented in the case history.
- (7) **If the estate fails to appeal the preliminary determination within the 30-day period allowed in Letter 950-H**, or as extended, or if the estate sends an untimely post-marked protest, the Letter 950-H – Preliminary § 6166 Determination Letter, becomes a final determination letter. Prepare and issue Letter 6335-F, Notice and Demand for Payment of Entire Estate Tax Liability. Letter 6335-F shall be mailed certified mail, return receipt requested. The Letter 6335-F shall reflect the account balance less the LI penalty, including the revised delinquent interest, plus any additional interest as of the 23c date.
- A. Abate the LI penalty (TC 241) that is associated with this delinquent period (LI penalty is not applicable for accounts that are accelerated). Do not abate TC 240 with reference code. These have been input by other functions.
  - B. Recompute the statutory interest on the past due installment from the last installment due date, adding any applicable FTP penalties as they were assessed to determine the correct interest now due, to the 23C date. (The previously assessed delinquent interest amount associated with this delinquent period will need to be subtracted from the recomputed amount.) Compute additional § 6166 interest up to the termination date (the 23c date). Combine the IRC § 6166 interest and statutory interest amount together and assess. Input TC 340 for the combined amount and TC 241 using a Hold Code of 0. Input TC 489 at the same time as the TC 241 and TC 340 to terminate deferred status.
  - C. Monitor the account for adjustments to post and Status 21. The Letter 6335-F shall be dated and mailed on the 23c date. When the account goes to Status 21, accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case.
- (8) If the estate pays the delinquent amount in full, including applicable penalties and interest, before the letter 6335-F is mailed, the account will remain in status 14. Allow the estate to remain under § 6166 status and bill for any accrued interest.
- (9) **If the estate provides a written protest** in response to the Letter 950-H, review the estate's protest. If the Service agrees with the estate and the entire installment payment has been received, continue the § 6166 election.
- (10) If after reviewing the protest letter, E&G Campus still believes that the estate's election should be terminated, E&G Campus shall prepare and send to Appeals

within 30 days from the postmark date of the protest letter an auxiliary file containing the following:

- A. Copy of Pages 1, 2, and 3 of the Form 706 and the schedules related to the closely-held business in the E&G Campus Installment File,
  - B. Notice of Section 6166 election,
  - C. Form 4349,
  - D. Copy of Letter 2568C, Follow-up Letter for Installment Billing: Form 706,
  - E. Any Forms 4768,
  - F. All correspondence between the Service and the Taxpayer related to the last year,
  - G. Case history,
  - H. Certification of Unchanged Status for previous year,
  - I. Letter 950-H,
  - J. All prior bills related to this year, and;
  - K. Protest from taxpayer.
- (11) Transfer the auxiliary file for review to the Office of Appeals for the state of the decedent's last domicile using the case routing list on the Appeal's website, <http://appeals.web.irs.gov/APS/bystate2.htm>, with the understanding the case may be transferred to another Appeals Office based on inventory needs. Prepare Form 3210 forwarding case to Office of Appeals notating "Type of Case IRC § 6166 – Termination for Failure to Pay." – This is an emerging issue. Please check the Appeals Technical Guidance issue locator on the Appeals webpage for further information
- (12) Input history item on IDRS that indicates the protest has been sent to Appeals.
- (13) Prepare a Form 3210 to Advisory notating that the case is being sent to Appeals and attach a copy of the protest. Forward to the appropriate Advisory Office. This Form 3210 is for informational purposes only. Place copy of the Form 3210 in the case folder. (For Illinois Decedents only, see IRM 4.25.2.1.16(14).)
- (14) The Appeals Office will send the case file, the Appeals Case Memorandum, and Letter 3570 to E&G Campus once a decision is final, so that E&G Campus can proceed with billing. If no response, E&G Campus will follow-up with Appeals in 90 days. E&G Campus may contact the Appeals' Account Resolution Specialist at (559) 456-5931 to locate case or update status.
- (15) Upon receipt of Letter 3570 or Letter 3571 from Appeals' indicating that the election is terminated, E&G Campus must prepare to terminate the election. Prepare and issue Letter 6335-F, and send certified mail, return receipt requested. E&G Campus will compute statutory interest on any underpaid

amount, additional § 6166 interest up to the 23c date. Combine § 6166 interest and statutory interest amounts together. Input TC 340 for the combined amount. Compute and assess FTP penalties, as applicable on the unpaid tax. Abate the LI penalty (TC 241). The Letter 6335-F shall be mailed on the 23c date. Prepare a Form 3210 informing Advisory that the Letter 6335-F has been issued notifying the estate of the termination and attach copies of the 6335-F. Suspend the case for 105 days from the date of the Letter 3570 or Letter 3571. Contact Appeals to determine if a petition with the Tax Court has been filed. If Appeals verifies that a petition has not been filed, input a TC 489 and accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case. If a petition has been filed, periodically monitor account for resolution. Do not remove account from Status 14 until there is resolution of the Tax Court case. If the audit is still open, inform the auditing attorney of transpiring actions within the case. Send a secure email informing Advisory that the case is in litigation. Associate a copy of any pertinent information with the original return.

- (16) If Appeals allows the account to remain under § 6166, make sure the account reflects the correct penalties and interest to bring the account current.

## **Section 7. Principal Installment Period – General Process**

- (1) After the four year interest deferral period, or immediately if the business is the type identified in IRC § 6166(b)(7), (b)(8), or (b)(10), the estate is billed for installment of principal and interest.
- (2) Considering the data on IDRS, the Form 4349, and the installment billing file E&G Campus shall compute interest on the entire deferred balance due from the prior installment date to the pending installment date considering any interim payments. Refer to IRM 4.25.2.1.13.
- (3) E&G Campus shall prepare and issue Letter 249C, Installment or Interest Due: Form 706. Include the interest and principal installment amount applicable to this particular tax (could be 10 percent or 20 percent of the deferred tax depending on whether IRC § 6166(b)(7), 6166(b)(8) or 6166(b)(10) is applicable, or less if the taxpayer elected). Letter 249C shall be issued approximately 30 days prior to the anniversary date.
- (4) Input TC 340 for interest on IDRS using Hold Code 3. Enclose copy of Letter 249C in folder and file in separate **"Payment Pending"**. Suspend for 45 days from the installment date.
- (5) If CP-191 received indicating payment of installment, E&G Campus shall:
  - A. Assure the payment was timely (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), and in the amount billed.

- B. Review the returned Letter 249C for proper signature of executor on the affidavit and any indication of an address change. If the estate has executed a section 6324A lien agreement (Form 13925), the designated agent on the lien agreement must sign Letter 249C. Check the file to determine if the estate has submitted a lien agreement or Form 13925. If the executor or personal representative has changed verify that letter of testamentary or relevant court document is included. If the state has closed the probate proceeding and discharged the executor, any person in possession of the property of the estate may sign the certification. See IRC §2203 and regulation §20.2203-1. If change is indicated, input the new address on IDRS and the installment database. The returned Letter 249C will be enclosed in the case folder.
  - C. Analyze and compare the CP-191 with the case file worksheet for accuracy prior to enclosing the CP-191 in case folder and refile in **“Installment Pending File”**.
- (6) If the estate fails to return the 249C, refer to IRM 4.25.2.1.16.

### **Section 8. Principal Installment Period – Paid Late**

- (1) **If the CP-191 indicates the payment is late**, E&G Campus shall:
  - A. Compute Failure to Pay Penalty (FTP Penalty) on the principal portion of the installment, from the installment due date (considering any extension of time to pay) to the date of the payment. Input TC 270 for the FTP Penalty on IDRS.
  - B. Compute Late Installment Penalty (LI Penalty) on the total installment due (principal and interest) from the installment due date (considering any extension of time to pay) to the date of payment. Input TC 240 for the penalty on IDRS.
  - C. Compute interest (at the prevailing rate) on the total installment due (principal and interest) from the installment due date to the date of payment, plus accrued interest to the payment due date on the Letter 6335. Input TC 340 for the interest amounts on IDRS.
  - D. Prepare and issue Letter 6335 for the LI Penalty, the FTP Penalty and interest. Send by certified mail, return receipt requested. Suspense for 45 days.
- (2) If taxpayer fails to pay LI Penalty, FTP penalties, and delinquent interest, within 45 days of the date the first Letter 6335 was issued, E&G Campus shall:
  - A. Compute interest (at the prevailing rate) on the total amount due from the payment due date of the first notice (Letter 6335) to the payment due

- date of the second notice (Letter 6335). Input TC 340 for the interest on IDRS.
- B. Prepare and issue Letter 6335, as the second notice. Send by certified mail, return receipt requested. Suspense for 45 days.
- (3) If taxpayer fails to pay LI Penalty, FTP penalties and delinquent interest, within 45 days of the date the second Letter 6335 was issued, E&G Campus shall:
- A. Prepare a Form 3210 annotating the issues including a delinquent payment of § 6166 election and attach copies of all prior billings. Forward to the appropriate Advisory Office. This Form 3210 is for informational purposes only. Place copy of the Form 3210 in the case folder.
  - B. Compute interest (at the prevailing rate) on the total amount due from the payment due date of second notice (Letter 6335) to the payment due date of the third notice (Letter 6335). Input TC 340 for the interest on IDRS.
  - C. Prepare and issue Letter 6335 as the third notice. Send by certified mail, return receipt requested. Suspense for 45 days.
  - D. Continue to issue the Letter 6335 until the LI Penalty, FTP penalties and delinquent interest is paid in full.
- (4) If payment is received timely (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), refile the case in the “**Installment Pending**” file. See IRC § 6601(e)(3).
- (5) If a partial payment is made, refer to LEM 4.25. 2.1.8(7).

### **Section 9. Principal Installment Period – Taxpayer Fails to Make the Installment Payment**

- (1) **If the taxpayer fails to make the installment (principal and interest) payment**, CP-191 will not generate. A manual review of the “**Payment Pending**” file will be necessary 45 days after the installment date. If the review shows any unpaid installment case, research IDRS for misapplied payment. Research for a request for an extension of time to pay the installment (Form 4768). If no payment or extension is located, E&G Campus shall:
- A. Compute Late Installment Penalty (LI Penalty) on the unpaid installment (principal and interest) at 5 percent per month (or fraction thereof) from the installment due date (considering any extension of time to pay) to the payment due date on the first notice (Letter 6335). Input TC 240 for LI Penalty on IDRS.

- B. Compute Failure to Pay (FTP) Penalty on the principal portion of the installment, from the installment due date (considering any extension of time to pay) to the payment due date on the first notice (Letter 6335). Input TC 270 for FTP penalty on IDRS.
  - C. Compute interest (at the prevailing rate) on the unpaid installment (principal and interest) from the installment due date to the payment due date on the first notice (Letter 6335). Input TC 340 for interest on IDRS.
  - D. Prepare and issue Letter 6335 for the past due principal and interest installment, LI Penalty, FTP Penalty, and accrued interest. Send by certified mail, return receipt requested. Suspense for 45 days.
- (2) If payment is not received timely (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), within 45 days of the first Letter 6335, E&G Campus shall:
- A. Compute Late Installment Penalty (LI Penalty) on the unpaid installment (principal and interest) at 5 percent per month (or fraction thereof) from the installment due date (considering any extension of time to pay) to the payment due date of the second notice (Letter 6335). Input TC 240 for the additional calculated amount of the LI Penalty on IDRS.
  - B. Compute Failure to Pay (FTP) Penalty on the principal portion of the installment from the installment due date (considering any extension of time to pay) to the payment due date of the second notice (Letter 6335). Input TC 270 for the additional calculated amount of the FTP penalty on IDRS.
  - C. Compute interest (at the prevailing rate) on the total amount due on the first notice (Letter 6335), from the payment due date of the first notice to the payment due date of the second notice (Letter 6335). Input TC 340 for interest on IDRS.
  - D. Prepare and issue Letter 6335 for the amounts on the previous Letter 6335 plus accrued penalty and interest as the second notice. Send by certified mail, return receipt requested. Suspense for 45 days.
- (3) If payment is not received timely (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), within 45 days of the second notice (Letter 6335), E&G Campus shall:
- A. Compute Late Installment Penalty (LI Penalty) on the unpaid installment (principal and interest) at 5 percent per month (or fraction thereof) from the installment due date (considering any extension of time to pay) to the payment due date of the third notice (Letter 6335-T, Final Notice and Demand for Estate Tax Installment Payment). Input TC 240 for the additional calculated amount of the LI Penalty on IDRS.

- B. Compute Failure to Pay (FTP) Penalty on the principal portion of the installment from the installment due date (considering any extension of time to pay) to the payment due date of the third notice (Letter 6335-T). Input TC 270 for the additional calculated amount of the FTP penalty on IDRS.
  - C. Compute interest (at the prevailing rate) on the total amount due on the second notice, from the payment due date of the second notice to the payment due date of the third notice (Letter 6335-T). Input TC 340 for interest on IDRS.
  - D. Prepare and issue Letter 6335-T for the amounts on the previous Letter 6335 plus accrued penalties and interest as the third notice. Send by certified mail, return receipt requested. Suspense for 45 days.
- (4) Prepare a Form 3210 informing Advisory that the Letter 6335 or Letter 6335-T has been sent and attach copies. Forward to the appropriate Advisory office.
  - (5) If payment is received timely (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), refile the case in the "Installment Pending" file.

**NOTE: The Late Installment Penalty is limited to a maximum of 30 percent.**

**NOTE: The account should not be accelerated until six months after the due date of the installment and notice and demand has been sent (Letter 6335-F).**

- (6) If the payment is not received timely (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), within 45 days of the Letter 6335-T, E&G Campus shall:
  - A. **If the decedent died before August 6, 1997**, the estate should not be sent Letter 950-H because the estate does not have the right to appeal or go to Tax Court. Prepare and issue Letter 6335-F, Notice and Demand for Payment of Entire Estate Tax Liability. Instead of selecting either of the optional paragraphs on Letter 6335-F insert the paragraph below, and send certified mail, return receipt requested. The Letter 6335-F shall reflect the account balance (after the TC241 and TC341) plus additional interest and FTP penalties as of the 23c date.
 

"The above estate defaulted on the IRC § 6166 election because it did not make installment payments as required under the statute. IRC section 6166(g)(3) provides that that we may terminate the election and collect the entire amount of estate tax liability if any payment of principal or interest is not made within 6 months of the due date for the payment (plus any extension of time granted). An installment payment was due more than 6 months ago. Notice and Demand for payment of the installment



was sent to you and no payment was received within 6 months of the date the payment was due.

Please pay the **Amount Now Due** as listed above. Failure to pay the amount will result in the imposition of additional interest and penalties.

We may file a Notice of Federal Tax lien pursuant to IRC section 6321 if we have not already done so. We may also pursue collection action against the transferees of the assets of the gross estate.

If you have already paid this installment, please call us immediately at the telephone number shown above. This is a toll free call."

1. Abate the LI Penalty (TC 241) that is associated with this delinquent period. (Late installment penalty is not applicable for accounts that are accelerated.) Input TC 241 to IDRS using a Hold Code 3. Do not abate TC 240 with reference codes. These have been input by other functions.
2. Abate the delinquent interest (TC 341) that is associated with this delinquent period. Input TC 341 to IDRS using a Hold Code 3.
3. Compute Failure to Pay (FTP) Penalty on the principal portion of the installment from the installment due date to the 23c date. (The 23c date will be extended due to the PDC 1). Input TC 270 for the additional calculated amount of the FTP penalty on IDRS with a posting delay code 1 and a Hold Code 3.
4. Recompute the interest (at the prevailing rate) on the past due installment from the last installment due date, adding FTP penalties as they were assessed to determine the correct interest now due, to the 23c date. (The 23c date will be extended due to the PDC 1). Compute § 6166 interest on the remaining deferred tax from the previous installment due date to the termination date (the 23c date). Combine the statutory interest and the § 6166 interest amounts together. Input TC 340 for the combined amount with a posting delay code 1 and a Hold Code 3. Input a TC 489 at the same time as the TC 270 and TC 340 to terminate the deferred status.
5. Prepare a Form 3210 informing Advisory that the Letter 6335-F has been issued notifying the estate of the termination and attach copies of the 6335-F. Forward to the appropriate Advisory Office.

6. Monitor the account for the adjustments to post and Status 21. The Letter 6335-F shall be dated and mailed on the 23c date. When the account goes to Status 21, accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case.
- B. **If the decedent died on or after August 6, 1997**, prepare and issue Letter 950-H – Preliminary Internal Revenue Code § 6166 Determination Letter, which gives the estate the right to appeal the termination. Letter 950-H shall be mailed certified mail return receipt requested.
1. The Letter 950-H shall be dated and mailed to the estate 45 days after the date of the Letter 6335-T. Monitor the account for a reply. Suspend for 45 days.
  2. Prepare a Form 3210 informing Advisory that the Letter 950-H has been issued notifying the estate of potential termination within 30 days and attach copies of the Letter 950-H and the related billings. Forward to the appropriate Advisory Office. This Form 3210 is for informational purposes only. Place copy of the Form 3210 in the case folder. (For Illinois Decedents only, see IRM 4.25.2.1.16(14).)
  3. The Estate has 30 days to respond to the Letter 950-H.
  4. The Team Manager may grant an extension of time to respond to the Letter 950-H for up to 30 days. In unusual cases if circumstances warrant, the Team Manager may grant an additional extension of time. Such approval and the reason for granting the additional extension must be documented in the case history
- (7) **If the estate fails to appeal the preliminary determination** within the 30-day period allowed in Letter 950-H, or as extended, or if the estate sends an untimely post-marked protest, the Letter 950-H – Preliminary § 6166 Determination Letter, becomes a final determination letter. Prepare and issue Letter 6335-F, notice and Demand for Payment of Entire Estate Tax Liability. Letter 6335-F shall be mailed certified mail, return receipt requested. The 6335-F shall reflect the account balance, less the LI penalty, plus the revised delinquent interest, plus any additional penalty and interest as of the 23c date.
- A. Abate the LI penalty (TC 241) that is associated with this delinquent period (LI penalty is not applicable for accounts that are accelerated). Do not abate TC 240 with reference code. These have been input by other functions.
  - B. Recompute the statutory interest on the past due installment from the last installment due date, adding any applicable FTP penalties as they

were assessed to determine the correct interest now due, to the 23C date. (The previously assessed delinquent interest amount associated with this delinquent period will need to be subtracted from the recomputed amount.) Compute additional IRC § 6166 interest up to the termination date (the 23c date). Combine the IRC § 6166 interest and statutory interest amounts together and assess. Compute and assess FTP penalties as applicable, on the unpaid tax on the prior delinquent amount. TC 241, TC 270 and TC 340 use a Hold Code 0. Input TC 489 at the same time as the TC 241, TC 270 and TC 340 to terminate deferred status.

- C. Monitor the account for the adjustments to post and Status 21. The Letter 6335-F shall be dated and mailed on the 23c date. When the account goes to Status 21, accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case.
- (8) If the estate pays the delinquent amount in full, including applicable penalties and interest, before the letter 6335-F is mailed, the account will remain in status 14. Allow the estate to remain under IRC § 6166 status and bill for any accrued interest.
- (9) **If the estate provides a written protest** in response to the Letter 950-H, review the estate's protest. If the Service agrees with the estate and payment has been received, continue the IRC § 6166 election.
- (10) If after reviewing the protest letter, E&G Campus still believes that the estates' election should be terminated, E&G Campus shall prepare and send to Appeals within 30 days from the postmark date of the protest letter an auxiliary file containing the following:
  - A. Copy of Pages 1, 2, and 3 of the Form 706 and the schedules related to the closely-held business in the E&G Campus Installment File,
  - B. Notice of IRC § 6166 election,
  - C. Form 4349,
  - D. Copy of Letter 2568C, Follow-up Letter for Installment Billing: Form 706,
  - E. Any Forms 4768,
  - F. All correspondence between the Service and the Taxpayer related to the last year,
  - G. Case history,
  - H. Certification of Unchanged Status for previous year,
  - I. Letter 950-H,
  - J. All prior bills related to this year, and;

K. Protest from taxpayer.

- (11) Transfer the auxiliary file for review to the Office of Appeals for the state of the decedent's last domicile using the case routing list on the Appeal's website, <http://appeals.web.irs.gov/APS/bystate2.htm>, with the understanding the case may be transferred to another Appeals Office based on inventory needs. Prepare Form 3210 forwarding case to Office of Appeals notating "Type of Case IRC § 6166 Termination for Failure to Pay." – This is an emerging issue. Please check the Appeals Technical Guidance issue locator on the Appeals webpage for further information. Input history item on IDRS that indicates the protest has been sent to Appeals.
- (12) Input history item on IDRS that indicates the protest has been sent to Appeals.
- (13) Prepare a Form 3210 to Advisory notating that the case is being sent to Appeals and attach a copy of the protest. Forward to the appropriate Advisory Office. This Form 3210 is for informational purposes only. Place copy of the Form 3210 in the case folder. (For Illinois Decedents only, see IRM 4.25.2.1.16(14).)
- (14) The Appeals Office will send the case file, a copy of the Appeals Case Memorandum, and Letter 3570 to E&G Campus once a decision is final, so that E&G Campus can proceed with billing. If no response, E&G Campus will follow-up with Appeals in 90 days. E&G Campus may contact the Appeals' Account Resolution Specialist at (559) 456-5931 to locate case or update status.
- (15) Upon receipt of Letter 3570 or Letter 3571 from Appeals' indicating that the election is terminated, E&G Campus must prepare to terminate the election. Prepare and issue Letter 6335-F, and send certified mail, return receipt requested. E&G Campus will compute statutory interest on any underpaid amount, additional IRC § 6166 interest up to the date of termination and statutory interest from the termination date as of the 23c date. Combine IRC § 6166 interest and statutory interest amounts together. Input TC 340 for the combined amount. Compute and assess FTP penalties, as applicable on the unpaid tax. Abate the LI penalty (TC 241). The Letter 6335-F shall be mailed on the 23c date. Prepare a Form 3210 informing Advisory that the Letter 6335-F has been issued notifying the estate of the termination and attach copies of the Letter 6335-F. Suspend the case for 105 days from the date of the Letter 3570 or Letter 3571. Contact Appeals to determine if a petition with the Tax Court has been filed. If Appeals verifies that a petition has not been filed, input a TC 489 and accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case. If a petition has been filed, periodically monitor account for resolution. Do not remove account from Status 14 until there is resolution of the Tax Court case. If the audit is still open, inform the auditing attorney of transpiring actions within the case. Send a secure e-mail informing Advisory that the case is in litigation. Associate a copy of any pertinent information with the original return.

- (16) If Appeals allows the account to remain under IRC § 6166, make sure the account reflects the correct penalties and interest to bring the account current.

### **Section 10. Miscellaneous Campus Termination Issues**

- (1) For various E&G Campus termination issues, reference the following termination flowchart.

If...	Then...
If the termination is the result of the sale, disposition of, distribution, or withdrawal of money from the closely-held business that is equal to or exceeds fifty percent of the closely-held business,	The termination date is the date of the sale, disposition, distribution, or withdrawal of the interest.
If the termination is the result of the failure to make installment payments of deferred tax,	The termination date is the date the notice and demand for the entire estate tax liability has been sent to the taxpayer, typically the Letter 6335-F.
If the termination is the result of the failure to provide security when the Service has determined that security is necessary,	The termination date is the date 30 days from the date of the issuance of the Letter 950-I – Preliminary Internal Revenue Code § 6166 Determination Letter.

- (2) **If the decedent died before August 6, 1997** and the election is terminated for any reason, the estate should not be sent the Letter 950-H because the estate does not have the right to appeal or go to Tax Court. Prepare and issue Letter 6335-F. Instead of selecting the optional paragraphs on Letter 6335-F, add the paragraphs below and select option 1 or 2. Letter 6335-F shall be mailed certified mail, return receipt requested. The 6335-F shall reflect the account balance (after the TC 241 and TC 341) plus any additional FTP penalty and additional interest as of the 23c date. The estate should not be sent the Letter 950-H and does not have the right to Appeal the termination. Prepare a Form 3210 informing Advisory that the Letter 6335-F has been issued notifying the estate of the termination and attach copies of the 6335-F. Forward to the appropriate Advisory Office.

“(1) The above estate defaulted on the IRC section 6166 election because it did not make installment payments as required under the statute. IRC section 6166(g)(3) provides that that we may terminate the election and collect the entire amount of estate tax liability if any payment of principal or

interest is not made within 6 months of the due date for the payment (plus any extension of time granted). An installment payment was due more than 6 months ago. Notice and Demand for payment of the installment was sent to you and no payment was received within 6 months of the date the payment was due. (2) The above estate defaulted on the IRC § 6166 election because the estate distributed, sold, exchanged, or otherwise disposed of a portion of its interest in the closely held business that originally qualified the estate for the IRC § 6166 election; or withdrew money or other assets attributable to the business, and the total value of the sales, exchanges, distributions, dispositions and withdrawals equals 50 percent or more of the value of the estate's interest in the closely held business. IRC § 6166 (g)(1) allows us to terminate the election and collect the remaining unpaid estate tax.

Please pay the **Amount Now Due** as listed above. Failure to pay the amount will result in the imposition of additional interest and penalties.

We may file a Notice of Federal Tax lien pursuant to IRC § 6321 if we have not already done so. We may also pursue collection action against the transferees of the assets of the gross estate.

If you have already paid this installment, please call us immediately at the telephone number shown above. This is a toll free call."

- (3) **If the decedent died on or after August 6, 1997** and the election is terminated for any reason, the estate should be sent the Letter 950-H, which gives it the right to Appeal the termination. Follow the procedures in this IG for that particular termination event.
- (4) In a situation where the closely-held business has been sold, the statutory interest computation date is the date of the sale.
- (5) If the estate fails to make the installment payment, the statutory interest computation date is the date Letter 6335-F is sent.
- (6) If the estate refuses to provide a lien or bond after a determination that security is required, the statutory interest computation date is 30 days from the date of the Letter 950-H.
- (7) **If E&G Campus determines that 50 percent or more of the closely held business is sold**, disposed of, otherwise distributed, or money is withdrawn from the business, for purposes of accelerating the payments, the statutory interest computation date is the date that 50 percent or more of the closely held business was sold, disposed of, otherwise distributed, or funds withdrawn. If the decedent died before August 6, 1997, see paragraph 2 above.

- A. Prepare and issue Letter 950-H and mail certified, return receipt requested.
- B. The Estate has 30 days to respond to the Letter 950-H.
- C. The Team Manager may grant an extension of time to respond to the Letter 950-H for up to 30 days. In unusual cases if circumstances warrant, the Team Manager may grant an additional extension of time. Such approval and the reason for granting the additional extension must be documented in the case history.
- D. Prepare a Form 3210 informing Advisory that the Letter 950-H has been issued notifying the estate of potential termination within 30 days and attach copies of the Letter 950-H. Forward to the appropriate Advisory Office. This Form 3210 is for informational purposes only. Place copy of the Form 3210 in the case folder. (For Illinois Decedents only, see IRM 4.25.2.1.16(14).)
- E. **If the estate fails to appeal the preliminary determination** within the 30-day period allowed in Letter 950-H, or as extended, or if the estate sends an untimely post-marked protest, within 45 days of the date of the letter, the Letter 950-H – Preliminary § 6166 Determination Letter becomes a final determination letter. Prepare and issue Letter 6335-F, Notice and Demand for Payment of Entire Estate Tax Liability. Letter 6335-F shall be mailed certified mail, return receipt requested. The Letter 6335-F shall reflect the account balance plus any additional penalty and interest as of the 23c date. E&G Campus shall compute additional IRC § 6166 interest, including any appropriate penalties and statutory interest on underpayments, up to the date of sale. These interest and penalty amounts shall be added to the balance. E&G Campus shall then compute statutory interest on the total balance from the termination date to the 23C date. Combine these two interest amounts and assess a combined TC 340 amount. Assess any appropriate penalties along with the TC 340. Input a TC 489 at the same time as the TC 340 using a Hold Code 0, to terminate the deferred status. Monitor the account for the adjustments to post and Status 21. The Letter 6335-F shall be dated and mailed on the 23c date. When the account goes to Status 21, accelerate the account to status 26 using command code ASGNB with assignment code 6466. Close case.
- F. **If the estate provides a written protest** in response to the Letter 950-H, review the estate's protest. If the Service agrees with the estate, continue the IRC § 6166 election.
- G. If after reviewing the protest letter, E&G Campus still believes that the estate's election should be terminated, E&G Campus shall prepare and

send to Appeals within 30 days from the postmark date of the protest letter an auxiliary file containing the following:

1. Copy of Pages 1, 2, and 3 of the Form 706 and the schedules related to the closely-held business in the E&G Campus Installment File,
2. Notice of IRC § 6166 election,
3. Form 4349,
4. Copy of Letter 2568C,
5. Any Forms 4768,
6. All correspondence between the Service and the Taxpayer related to the last year,
7. Case history,
8. Certification of Unchanged Status for previous year,
9. Letter 950-H,
10. All prior bills related to this year, and;
11. Protest from taxpayer.

- H. Transfer the auxiliary file for review to the Office of Appeals for the state of the decedent's last domicile using the case routing list on the Appeal's website <http://appeals.web.irs.gov/APS/bystate2.htm>, with the understanding the case may be transferred to another Appeals Office based on inventory needs. Prepare Form 3210 forwarding case to office of Appeals notating "Type of Case IRC § 6166 – Termination for Failure to Pay." – This is an emerging issue. Please check the Appeals Technical Guidance issue locator on the Appeals webpage for further information
- I. Input history time on IDRS that indicates the protest has been sent to Appeals.
- J. Prepare a Form 3210 to Advisory notating that the case is being sent to Appeals and attach a copy of the protest. Forward to the appropriate Advisory Office. This Form 3210 is for informational purposes only. Place copy of the Form 3210 in the case folder. (For Illinois Decedents only, see IRM 4.25.2.1.16 (14).)
- K. The Appeals Office will send the case file, a copy of the Appeals Case Memorandum, and Letter 3570 to E&G Campus once a decision is final, so that E&G Campus can proceed with billing. If no response, the E&G Campus will follow-up with Appeals in 90 days. E&G Campus may



contact the Appeals' Account Resolution Specialist at (559) 456-5931 to locate case or update status.

- L. Upon receipt of Letter 3570 or Letter 3571 from Appeals indicating that the election is terminated, E&G Campus must prepare to terminate the election. Prepare and issue Letter 6335-F, and send certified mail, return receipt requested. E&G Campus will compute statutory interest on any underpaid amount, additional IRC § 6166 interest up to the date of termination and statutory interest from the termination date as of the 23c date. Combine IRC § 6166 interest and statutory interest amounts together. Input TC 340 for the combined amount. Compute and assess FTP penalties, as applicable on the unpaid tax. The Letter 6335-F shall be mailed on the 23c date. Prepare a Form 3210 informing Advisory that the Letter 6335-F has been issued notifying the estate of the termination and attach copies of the 6335-F. Suspend the case for 105 days from the date of the Letter 3570 or Letter 3571. Contact Appeals to determine if a petition with the Tax Court has been filed. If Appeals verifies that a petition has not been filed, input a TC 489 and accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case. If a petition has been filed, periodically monitor account for resolution. Do not remove account from Status 14 until there is resolution of the Tax Court case. If the audit is still open, inform the auditing attorney of transpiring actions within the case. Send a secure email informing Advisory that the case is in litigation. Associate a copy of any pertinent information with the original return.
  - M. If Appeals allows the account to remain under IRC § 6166, the interest and penalties will need to be adjusted to reflect the correct balance. Additional interest may be due to bring the account current.
- (8) **E&G Exam notifies E&G Campus to accelerate the payment.** E&G Exam may deny or terminate an election during the examination. After E&G Exam sends Letter 950-J, Preliminary Internal Revenue Code § 6166 Determination Letter, to the estate, they will send a copy to E&G Campus to associate with the file and will later notify E&G Campus when the Letter 6335-F should be issued.
  - (9) If less than 6 months remains on the statute, E&G Exam may close out the No Change examination after alerting E&G Campus to the unagreed IRC § 6166 issue and requesting E&G Campus to flag the file and hold the return after it clears the Case Closing Unit, for possible receipt of a protest by E&G Exam. E&G Exam will alert E&G Campus, of the close out of the case. Meanwhile, E&G Exam must set up an auxiliary file for the unagreed IRC § 6166 issue awaiting a response to the 950-J letter. E&G Exam must notify E&G Campus, 45 days after the Letter 950-J was mailed, if a protest is received, or if the 30-day period has expired without a protest. E&G Campus may need to contact CCP to request expedite processing due to the request of the estate to protest. After E&G Exam

procedures have been completed, the auxiliary file will be forwarded to E&G Campus to be associated with the original return file. E&G Campus will forward both files to Appeals, within 30 days of the postmark date of the protest letter, if a protest was received.

- (10) If a protest was not received, E&G Campus will prepare and issue Letter 6335-F, and send certified mail, return receipt requested. If the estate does not file a response within the 30-day period allowed in Letter 950-J, or as extended, or if the estate sends an untimely post-marked protest, E&G Exam shall terminate the election 15 days (to allow for mail time) after the expiration of the 30-day period or the extension period. E&G Exam must send to the E&G Campus a narrative indicating the Appeals time has expired and E&G Campus shall terminate the installment payment status and accelerate the tax.
- (11) Upon receipt of E&G Exam's narrative to terminate the election, E&G Campus must prepare to terminate the election. E&G Campus will compute additional IRC § 6166 interest up to the date of termination and compute statutory interest from the termination date as of the 23c date. Combine IRC § 6166 interest and statutory interest together. Input TC 340 for the combined amount. Compute and assess FTP penalties, as applicable on the unpaid tax. TC 489 must be input at the same time. E&G Campus will prepare and issue Letter 6335-F, and send certified mail, return receipt requested when the account goes to Status 21. When the account goes to Status 21, accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case.
- (12) Upon receipt of Letter 3570 or Letter 3571 from Appeals' indicating that the election is terminated, E&G Campus must prepare to terminate the election. Prepare and issue Letter 6335-F, and send certified mail, return receipt requested. E&G Campus will compute statutory interest on any underpaid amount, additional IRC § 6166 interest up to the date of termination and statutory interest from the termination date as of the 23c date. Combine IRC § 6166 interest and statutory interest amounts together. Input TC 340 for the combined amount. Compute and assess FTP penalties, as applicable on the unpaid tax. The Letter 6335-F shall be mailed on the 23c date. Suspend the case for 105 days from the date of the Letter 3570 or 3571. Contact Appeals to determine if a petition with the Tax Court has been filed. If Appeals verifies that a petition has not been filed, input a TC 489 and accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case. If a petition has been filed, periodically monitor account for resolution. Do not remove account from Status 14 until there is resolution of the Tax Court case. Associate a copy of any pertinent information with the original return.
- (13) If Appeals allows the account to remain under IRC § 6166, the interest and penalties will need to be adjusted to reflect the correct balance. Additional interest may be due to bring the account current.

- (14) **Advisory notifies E&G Campus to accelerate the payment.** Advisory will send a copy of the Letter 950-I, Preliminary Internal Revenue Code § 6166 Determination Letter, to the estate to terminate the election. Advisory will send a copy of Letter 950-I to E&G Campus to associate with the file.
- (15) If the estate does not **appeal the preliminary determination** within the 30-day period allowed in Letter 950-I, or as extended, or if the estate sends an untimely post-marked protest, Advisory shall terminate the election 15 days (to allow for mail time) after the expiration of the 30-day period or the extension period. Advisory must send to the E&G Campus a narrative indicating the Appeals time has expired and E&G Campus shall terminate the installment payment status and accelerate the tax.
- (16) Upon receipt of Advisory's narrative to terminate the election, E&G Campus must prepare to terminate the election. E&G Campus will compute additional IRC § 6166 interest up to the date of termination and compute statutory interest from the termination date as of the 23c date. Combine IRC § 6166 interest and statutory interest together. Input TC 340 for the combined amount. Compute and assess FTP penalties, as applicable on the unpaid tax. TC 489 must be input at the same time. E&G Campus will prepare and issue Letter 6335-F, and send certified mail, return receipt requested when the account goes to Status 21. When the account goes to Status 21, accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case.
- (17) Upon receipt of Letter 3570 or Letter 3571 from Appeals' indicating that the election is terminated, E&G Campus must prepare to terminate the election. Prepare and issue Letter 6335-F, and send certified mail, return receipt requested. E&G Campus will compute statutory interest on any underpaid amount, additional IRC § 6166 interest up to the date of termination and statutory interest from the termination date as of the 23c date. Combine IRC § 6166 interest and statutory interest amounts together. Input TC 340 for the combined amount. Compute and assess FTP penalties, as applicable on the unpaid tax. The Letter 6335-F shall be mailed on the 23c date. Suspend the case for 105 days from the date of the Letter 3570 or Letter 3571. Contact Appeals to determine if a petition with the Tax Court has been filed. If Appeals verifies that a petition has not been filed, input a TC 489 and accelerate the account to Status 26 using command code ASGNB with assignment code 6466. Close case. If a petition has been filed, periodically monitor account for resolution. Do not remove account from Status 14 until there is resolution of the Tax Court case. If the audit is still open, inform the auditing attorney of transpiring actions within the case. Send a secure email informing Advisory that the case is in litigation. Associate a copy of any pertinent information with the original return.
- (18) If Appeals allows the account to remain under IRC § 6166, the interest and penalties will need to be adjusted to reflect the correct balance. Additional interest may be due to bring the account current.

### **Section 11. Miscellaneous Campus Procedures**

- (1) The E&G Exam group will be responsible for sending lien packages to Advisory when the case has been assigned to the group for examination. When returns are accepted as filed or surveyed during classification, E&G Campus will be responsible for preparing and forwarding the lien package to Advisory. E&G Campus will hold the original tax return for 90 days once the lien package is sent to Advisory, in case additional information is needed. The lien package consists of the following documentation from the case file:
  - A. Pages 1, 2 and 3 of Form 706 and schedules A, B, F&G and any attachments thereto including other pertinent schedules listing assets.
  - B. Form 4349, *Computation of Estate Tax Due With Return and Annual Installment*.
  - C. Form 1273, *Report of Estate Tax Examination Changes*, and Form 3228, *Adjustments to Taxable Estate*. (These forms will not be provided if the case is surveyed or accepted as filed.)
  - D. Estate tax attorney's narrative report of examination changes. (e.g. Form 886A, *Explanation of Items*, or similar documentation.) (This form will not be provided if the case is surveyed or accepted as filed.)
  - E. Any Form 2848, *Power of Attorney and Declaration of Representative*.
  - F. IRC § 6166 election and attachments to the election.
  - G. Listing of all businesses listed on the Estate tax return including name and EIN. This information may be listed separately or on the related schedule.
- (2) If payment is received timely (within 10 business days if the payment equals or exceeds \$100,000.00, or within 21 calendar days for lesser amounts), refile the case in the "**Installment Pending**" file. See IRC § 6601(e)(3).
- (3) When Advisory receives an IRC § 6324A lien agreement, they will send a copy of the agreement to E&G Campus. E&G Campus will flag the agreement and associate it with the IRC § 6166 case file for future reference. If the designated agent indicated in the lien agreement is someone other than the executor and they have not completed Form 8821, first contact the executor to request that he or she complete Form 8821. If the executor refuses to complete Form 8821, request advice from a transfer tax technician. Forward Form 8821 to the CAF unit. Add Form 8821 information to the database.
- (4) There is no reasonable cause exception that allows the IRS to abate a late installment penalty IRC § 6166 (g)(3). The estate may not Appeal this penalty.

- (5) If E&G Exam notifies E&G Campus of a partial agreement where the IRC § 6166 issue is unagreed and other tax issues are agreed or no change, E&G Campus will apply the existing IRC § 6166 ratio to the assessed tax change. Final billing adjustments will occur when the unagreed IRC § 6166 qualification issue is resolved.
- (6) If E&G Exam notifies E&G Campus of a partial agreement where the IRC § 6166 issue is denied and other tax issues are unagreed and the estate does not protest, E&G Exam shall deny or terminate the election 15 days after the expiration of the 30 day period or the extension period. E&G Exam must send a narrative to E&G Campus for denial or termination of the election along with a copy of the Letter 950-J. E&G Exam shall instruct E&G Campus to send Letter 6335-F by certified mail, return receipt requested. The Letter 6335-F should be based on the existing IRC § 6166 figures. Since the reason for the termination is determinative of the termination date, the narrative shall set forth the reason for the termination. For example, if the termination is the result of a sale or other disposition that equals or exceeds fifty percent of the closely-held business, the date of the sale or other disposition shall be included in the narrative. When the other unagreed issues are resolved, a final bill will be sent.
- (7) Anytime a Letter 6335-F is issued by E&G Campus a copy will be forwarded to the appropriate Advisory office on Form 3210.
- (8) When Appeals determines that the estate is entitled to an IRC § 6166 election, the entire case file, including the original return shall be sent to Advisory to copy information necessary for bond or lien determination. Advisory shall copy the necessary information in the file within 30 days and the return shall be sent to E&G Campus to complete the installment account set-up.
- (9) Appeals will fax a copy of their report, including the Appeals Case Memorandum, the corrected form 4549 and the audit statement to the E&G Campus, so that once the adjustment is input by Appeals, E&G Campus can assess the additional interest. Additionally, E&G Campus will determine the new deferred and non-deferred tax and adjust any billings as necessary.
- (10) Once Appeals has made their determination the case will be held for 105 days from the date of the Letter 3570 or Letter 3571, pending possible Tax Court petition. 105 days after the date of the Letter 3570 or Letter 3571, contact Appeals to determine if a petition with the Tax Court has been filed.

## **Section 12. Introduction for Processing IRC §6166 Cases - Exam**

- (1) The Cincinnati Campus Estate and Gift Tax Operations (E&G Campus) will select for review all Forms 706 with an election under IRC § 6166. The returns will either be selected for field consideration or will be Accepted as Filed. An Estate and Gift Tax field group (E&G Exam) shall make a determination whether the

estate qualifies to make the IRC § 6166 election. See sections 13 through 18, below, for further information on this determination.

- (2) Once it is determined the estate qualifies for the IRC § 6166 election, the examiner must:
  - A. Complete Form 4349, *Computation of Estate Tax Due With Return and Annual Installment*. This form must be submitted on all examined or surveyed returns. In a partially agreed case, use only the agreed figures. Form 4349 verifies the deferred tax computation on all IRC § 6166 cases.
  - B. Indicate by checking the appropriate boxes on Form 4349 that audit action has been completed and that the election is valid. Also note on the form if any of the qualifying assets have been sold or liquidated.
  - C. Prepare and forward the following documents by facsimile to the appropriate territory technical group at the Estate and Gift Tax Operation at the E&G Campus:
    - Copy of Form 1273, *Report of Estate Tax Examination Changes*, including narratives (for examined returns only) and Form 3228, *Adjustments to Taxable Estate*.
    - The examiner's narrative report of examination changes.
    - Copy of IRC section 6166 election and attachments.
    - The first three pages of the Form 706.
    - Inter-related computations.

**Note:** Estate and Gift Tax Operation at the E&G Campus can review and verify the computation and paperwork for accuracy. To request a review and verification of your computation, contact the Campus Processing Unit Manager for your territory by E-mail or fax. E-mail with taxpayer data must be sent using the secure messaging feature.

    - Form 4349, *Computation of Estate Tax Due with Return and Annual Installments*, with supporting calculations.
    - Facsimile numbers and checklist may be found at the Estate and Gift Web Site, [E&G Campus Information](#).
- (3) Advisory must determine on a case-by-case basis whether the estate must provide a bond or lien. In order to make a case-by-case determination, a lien package must be sent to Advisory Estate Tax Group Manager along with a Form 3210 annotating each item enclosed with the package. The lien package consists of the following documentation from the case file:
  - A. Pages 1, 2 and 3 of Form 706 and schedules A, B, F&G and any attachments thereto (but not appraisals unless specifically requested by an Advisor) including other pertinent schedules listing assets.

- B. Form 4349, *Computation of Estate Tax Due With Return and Annual Installment*.
  - C. Form 1273, *Report of Estate Tax Examination Changes*, and Form 3228, *Adjustments to Taxable Estate*. (These forms will not be provided if the case is surveyed or accepted as filed.)
  - D. The examiner's narrative report of examination changes. (e.g. Form 886A, *Explanation of Items*, or similar documentation.) (This form will not be provided if the case is surveyed or accepted as filed.)
  - E. Any Form 2848, *Power of Attorney and Declaration of Representative*.
  - F. IRC § 6166 election and attachments to the election.
  - G. Listing of all businesses listed on the Estate tax return including name and EIN. This information may be listed separately or on the related schedule.
- (4) If E&G Exam determines that 50 percent or more of the closely held business has been distributed, sold, exchanged, or otherwise disposed of, or if money and other property equal to 50 percent or more of the business value has been withdrawn, E&G Exam shall immediately notify E&G Campus of an acceleration under IRC § 6166(g)(1). E&G Campus will issue the Letter 950-H.

### **Section 13. § 6166 Returns Accepted as filed on Classification**

- (1) At classification, an estate tax attorney will consider whether the initial eligibility requirements to make the IRC § 6166 election appear to have been met. The estate is eligible under IRC § 6166 to make the election if the decedent was a US citizen, the decedent's interest in the closely held business exceeds 35 percent of the adjusted gross estate (not including passive assets), and the notice of election under IRC § 6166 was attached to a timely filed estate tax return. The business must also qualify as a closely-held business, as defined in IRC §6166(b). In certain cases there may be additional eligibility requirements. See IRC §6166(b)-(h). If all IRC section 6166 requirements have been met and there are no other issues pending, the return may be "Accepted as Filed" on classification. The form should be stamped to indicate that it is "Accepted as Filed". The Classification sheet or Folder should be annotated by checking the "Lien Only" box. These returns will be sent to the Estate and Gift Tax Group at the E&G Campus.
- (2) E&G Campus must submit a lien package, as described in section 12(3), above, to the attention of the Advisory Estate Tax Group Manager. The lien packages shall be sent to Advisory along with a Form 3210 listing each item included in the lien package.

- (3) E&G Campus will close the case, issue a closing letter, and confirm that installment payments are established.
- (4) E&G Campus will hold the original tax return for 90 days once the lien package is sent to Advisory, in case additional information is needed.

#### **Section 14. Surveyed Returns**

- (1) If the return is surveyed by E&G Exam, the examiner assigned to the case or the E&G Exam Group Manager will determine whether the estate has met the initial eligibility requirements to make the IRC §6166 election and will complete the Installment Payment Election § 6166 Lead Sheet. (A return selected for field examination but not assigned to an E&G Exam field group can be surveyed at the E&G Campus.) The estate is eligible under IRC § 6166 to make the election if the decedent was a US citizen, the decedent's interest in the closely held business exceeds 35 percent of the adjusted gross estate (not including passive assets), and the notice of election under IRC §6166 was attached to a timely filed estate tax return. The business must also qualify as a closely-held business, as defined in IRC §6166(b). In certain cases there may be additional eligibility requirements. See IRC §6166 (b)-(h).
- (2) The examiner shall send the following information to E&G Campus to assist with establishing the installment payment:
  - A. Page 1, with "Survey" stamp, along with pages 2 and 3 of the original Form 706,
  - B. Copy of IRC § 6166 election and any attachments,
  - C. Inter-related computations,
  - D. Form 4349, *Computation of Estate Tax Due with Return and Annual Installments*, along with supporting calculations, and
  - E. The above information is faxed to the appropriate Technical Group at the E&G Campus for the applicable Territory:
    - 1. Territory Northeast (859) 669-3004
    - 2. Territory East (859) 669-3501
    - 3. Territory Central and Territory West (859) 669-3005 or 3006
- (3) The examiner shall attach a copy of Form 4349 to the back of page 1 of the Form 706. The examiner shall send the case to Centralized Case Processing (CCP) to issue a closing letter.
- (4) After processing, CCP forwards the return to E&G Campus to confirm that installment payments are established.



- (5) In order to make a case-by-case determination of whether to require security, E&G Exam shall send the lien package, as described in section 12(3), above, to the attention of the Advisory Estate Tax Group.

**Section 15. Examined Returns – Qualifying § 6166 Election with an Unagreed Deferral Term Issue and Agreed Tax Issues or No Change**

- (1) If the return is examined by E&G Exam, the examiner assigned to the case will determine whether the taxpayer has met the initial eligibility requirements to make the IRC § 6166 election and will complete the Installment Payment Election § 6166 Lead Sheet. This should be done as early during the examination as possible. The estate is eligible under IRC § 6166(a) to make the election if the decedent was a US citizen, the decedent's interest in the closely held business exceeds 35 percent of the adjusted gross estate (not including passive assets), and the notice of election under IRC § 6166 was attached to a timely filed estate tax return. The business must also qualify as a closely-held business, as defined in IRC § 6166(b). In certain cases there may be additional eligibility requirements, see IRC § 6166 (b)-(h).
- (2) If the estate elects a 14-year deferral period but IRC § 6166 (b)(7),(b)(8), or (b)(10) applies to the closely held business, then the deferral period on the account must be adjusted accordingly. E&G Exam will prepare and issue by certified mail Letter 950-K, *Preliminary Internal Revenue Code Section 6166 Determination Letter*, selecting the appropriate paragraphs regarding the preliminary determination adjusting the account; informing the estate which subsection of IRC § 6166 applies, i.e. (b)(7), (b)(8), or (b)(10); and informing the estate of its appeal rights. E&G Exam shall send a copy of Letter 950-K to E&G Campus for informational purposes.
- (3) The estate has 30 days from the date of the Letter 950-K to appeal the IRC § 6166 determination. The E&G Exam Group Manager may grant an extension for up to 30 days. In unusual cases if circumstances warrant, the E&G Exam Group Manager may grant an additional extension of time. Such approval and the reason for granting the additional extension must be documented in the Form 9984, *Examining Officer's Activity Record*.
- (4) If the estate does not appeal the preliminary determination within the 30 day period allowed in Letter 950-K, or as extended, or if the estate sends an untimely post-marked protest, the examiner shall notify E&G Campus of the change in the deferral period and instruct E&G Campus to send Letter 6335 for any balance due resulting from the change in the deferral period. E&G Exam shall close the agreed or no change examination tax case following normal agreed case closing procedures.

- (5) If the estate tax issues are agreed and the IRC § 6166 issues are not protested then, prior to closing the agreed estate tax case,
- A. The examiner shall send the following information to E&G Campus to assist with establishing the installment payment:
    - 1. Pages 1, 2, and 3 of the original Form 706,
    - 2. Copy of Form 1273, *Report of Estate Tax Examination Changes*, Form 886-A, and any narratives,
    - 3. Copy of IRC § 6166 election and any attachments,
    - 4. Inter-related computations,
    - 5. Revised Form 4349, *Computation of Estate Tax Due with Return and Annual Installments*, along with supporting calculations,
    - 6. Copy of Letter 950-K, and;
    - 7. The above information is to be faxed with Form 3210 indicating that the estate has not protested the Letter 950-K to the appropriate Technical Group at the E&G Campus for the applicable Territory:
      - i Territory Northeast (859) 669-3004
      - ii Territory East (859) 669-3501
      - iii Territory Central and Territory West (859) 669-3005 or 3006
  - B. The examiner shall attach a copy of Form 4349 to the back of page 1 of the Form 706 in the agreed examination case file. E&G Exam shall send the case file to Centralized Case Processing (CCP) to issue a closing letter.
  - C. After processing the agreed examination case file, CCP forwards the return to E&G Campus to confirm that installment payments are established.
  - D. In order to make a case-by-case determination of whether to require security, E&G Exam shall send the lien package, as described in section 12(3), above, to the attention of the Advisory Estate Tax Group.
- (6) If the estate submits a protest to request Appeals consideration, E&G Exam will date stamp the protest, verify the protest was filed timely and document the Form 9984. If the estate submits a timely filed protest containing new IRC § 6166 issues, new arguments or new information with its request for Appeals consideration, the examiner shall consider the information and determine whether to revise the examiner's position (i.e., the terms of estate's deferral period to be allowed). The examiner shall prepare a response to the protest that includes the determination reached. The examiner shall send the response to the protest to the estate and include a copy in the agreed examination case file.

- (7) If after considering the protest, the examiner agrees that the estate is entitled to the IRC § 6166 election, the examiner will follow the agreed tax procedures discussed in subsection 5 of this section except that the Form 3210 should notify E&G Campus to continue the IRC § 6166 election, with any adjustments that are agreed.
- (8) If no new issues are raised by the estate in its request for Appeals consideration, the examiner will not prepare a response to the protest.
- (9) If after considering the protest, the examiner still does not agree with the estate's position, the examiner will prepare a separate auxiliary IRC § 6166 case file containing all the documents needed by Appeals, see subsection 10 below, to consider the estate's IRC § 6166 appeal. The examiner shall not establish AIMS controls on this IRC § 6166 auxiliary case file. E&G Campus will continue to control and monitor the IRC § 6166 account. Notify E&G Campus by secure email that a protest has been forwarded to Appeals so that the Letter 6335-F is not sent prematurely.
- (10) The auxiliary § 6166 case file shall contain copies (or originals where appropriate) of:
  - A. Pages 1, 2, and 3 of the Form 706 and the schedules related to the closely held business,
  - B. Power of Attorney information,
  - C. The Examining Attorney's notes and report on the IRC § 6166 qualification issue, plus any other documents that affect the IRC § 6166 qualification,
  - D. The IRC § 6166 election statement and any attachments,
  - E. Form 4349,
  - F. Any Forms 4768,
  - G. All correspondence between the Service and the Taxpayer relating to the election,
  - H. Any supplemental 706 returns that were filed,
  - I. Any state estate or inheritance tax returns that were filed, if payment of state death taxes was deferred or interest on state death taxes is being allowed or claimed as a deduction, together with state payment information,
  - J. Form 9984,
  - K. Letter 950-K,
  - L. Protest from the taxpayer, and;
  - M. Examiner's response to the Protest.

- (11) The IRC § 6166 auxiliary file will be forwarded to Appeals using a Form 3210 transmittal that is notated with the type of case as "IRC § 6166 - Qualification (Deferral Period)" or "IRC § 6166 - Qualification (Deferred Tax)" with no AIMS controls. The Form 3210 shall also be notated with the following language: "This is an emerging issue. Please check the Appeals Technical Guidance issue locator on the Appeals webpage for further information." The examiner will close the regular agreed examination case file separately following normal agreed case closing procedures.
- (12) E&G Exam shall forward the protested IRC § 6166 auxiliary file within 30 days from the postmark date of the protested letter to the Office of Appeals for the state of the decedent's last domicile using the Case Routing List-Appeals website, <http://appeals.web.irs.gov/APS/bystate2.htm>, with the understanding the case may be transferred to another Appeals office based on Appeals inventory needs.

#### **Section 16. Examined Returns –Qualifying IRC § 6166 Election with an Unagreed Deferral Term Issue and Unagreed Tax Issues**

- (1) If the return is examined by E&G Exam, then the examiner assigned to the case will determine whether the taxpayer has met the eligibility requirements to make the IRC § 6166 election and will complete the Installment Payment Election § 6166 Lead Sheet. This should be done as early during the examination as possible. The estate is eligible under IRC § 6166(a) to make the election if the decedent was a US citizen, the decedent's interest in the closely held business exceeds 35 percent of the adjusted gross estate (not including passive assets), and the notice of election under IRC § 6166 was attached to a timely filed estate tax return. The business must also qualify as a closely-held business, as defined in IRC § 6166(b). In certain cases there may be additional eligibility requirements. See IRC § 6166 (b)-(h).
- (2) If the estate elects a 14-year deferral period but IRC § 6166 (b)(7),(b)(8), or (b)(10) applies to the closely held business, then the deferral period on the account must be adjusted accordingly. E&G Exam will prepare and issue by certified mail Letter 950-K, *Preliminary Internal Revenue Code Section 6166 Determination Letter*, selecting the appropriate paragraphs regarding the preliminary determination adjusting the account; informing the estate which subsection of IRC § 6166 applies, i.e. (b)(7), (b)(8), or (b)(10); and informing the estate of its appeal rights. E&G Exam shall send a copy of Letter 950-K to E&G Campus for informational purposes.
- (3) The estate has 30 days from the date of the letter 950-K to appeal the IRC § 6166 determination. The E&G Exam Group Manager may grant an extension for up to 30 days. In unusual cases if circumstances warrant, the E&G Exam Group Manager may grant an additional extension of time. Such approval and the

reason for granting the additional extension must be documented in the Form 9984, *Examining Officer's Activity Record*.

- (4) If the estate does not appeal the preliminary determination within the 30 day period allowed in Letter 950-K, or as extended, or if the estate sends an untimely post-marked protest, the examiner shall notify E&G Campus of the new terms applicable to the existing IRC § 6166 election and instruct E&G Campus to send Letter 6335 for any balance due resulting from the change in the deferral period. E&G Exam shall forward the unagreed examination case file to Appeals through normal unagreed case closing procedures.
- (5) If the estate submits a protest to request Appeals consideration, E&G Exam will date stamp the protest, verify the protest was filed timely and document the Form 9984. If the estate submits a timely filed protest containing new IRC § 6166 issues, new arguments or new information with its request for Appeals consideration, the examiner shall consider the information and determine whether to revise the examiner's position (i.e. estate's deferral period allowed). The examiner shall prepare a response to the protest that includes the determination reached. The examiner shall send the response to the protest to the estate and include a copy in the case file.
- (6) If after considering the protest, the examiner agrees that the estate is entitled to the IRC § 6166 election, the examiner will notify E&G Campus to continue the IRC § 6166 election. E&G Exam shall forward the unagreed examination case file to Appeals through normal unagreed case closing procedures
- (7) If no new issues are raised by the estate in its request for Appeals consideration, the examiner will not prepare a response to the protest.
- (8) If after considering the protest, the examiner still does not agree with the estate's position, the examiner will prepare a separate IRC § 6166 auxiliary file containing all the documents needed by Appeals, see subsection 9 below, to consider the estate's IRC § 6166 appeal. The examiner shall not establish AIMS controls on this IRC § 6166 auxiliary case file. E&G Campus will continue to monitor and control the IRC § 6166 account. Notify E&G Campus by secure email that a protest has been forwarded to Appeals so that the Letter 6335-F is not sent prematurely.
- (9) The auxiliary § 6166 case file shall contain copies (originals where appropriate) of:
  - A. Pages 1, 2, and 3 of the Form 706 and the schedules related to the closely held business,
  - B. Power of Attorney information,
  - C. The Examining Attorney's notes and report on the IRC § 6166 qualification issue, plus any other documents that affect the IRC § 6166 qualification,

- D. The IRC § 6166 election statement,
  - E. Form 4349,
  - F. Any Forms 4768,
  - G. All correspondence between the Service and the Taxpayer relating to the election,
  - H. The unagreed examination case report and computations,
  - I. Any supplemental 706 returns that were filed,
  - J. Any state estate or inheritance tax returns that were filed, if payment of state death taxes was deferred or interest on state death taxes is being allowed or claimed as a deduction, together with state payment information,
  - K. Form 9984,
  - L. Letter 950-K,
  - M. Protest from the taxpayer, and
  - N. Examiner's response to the Protest.
- (10) E&G Exam shall forward the IRC § 6166 auxiliary file to Appeals independent of the regular unagreed protested examination case. The Form 3210 shall cross reference the related return. The Form 3210 transmittal for the IRC § 6166 auxiliary file will notate the type of case as "IRC § 6166 – Qualification-Deferred Period" or "IRC § 6166 – Qualification-Deferred Tax" with no AIMS control. The Form 3210 shall also be notated with the following language: "This is an emerging issue. Please check the Appeals Technical Guidance issue locator on the Appeals webpage for further information." The examiner will further state there is an unagreed estate tax examination case being sent to Appeals separately. The examiner will forward the regular protested examination case file following normal unagreed case closing procedures.
- (11) E&G Exam shall forward the protested IRC § 6166 auxiliary file within 30 days from the postmark date of the protest letter to the Office of Appeals for the state of the decedent's last domicile using the Case Routing List-Appeals website, <http://appeals.web.irs.gov/APS/bystate2.htm>, with the understanding the case may be transferred to another Appeals office based on Appeals inventory needs.
- (12) E&G Exam shall follow the normal case closing procedures for unagreed cases for the non-section 6166 issues. If E&G Exam is issuing a 90-day letter, all issues except the IRC § 6166 qualification or termination issues shall be included in the unagreed report. The 90-day letter shall be closed in accordance with 90-day closing procedures.

**Section 17. Examined Return – Unagreed IRC § 6166 Qualification and Agreed Tax Issues or No Change**

- (1) If the return is examined by E&G Exam and the examiner assigned to the case determines the estate is not eligible to make the IRC § 6166 election or has terminated its election, but there is no dispute about the amount of tax owed, the examiner will prepare the Letter 950-J, *Preliminary Internal Revenue Code § 6166 Determination Letter*, denying or terminating the IRC § 6166 election. The E&G Exam Group Manager will issue the 950-J preliminary determination letter denying or terminating the election by Certified Mail.
- (2) The estate has 30 days from the date of the Letter 950-J, to appeal the IRC § 6166 determination. The E&G Exam Group Manager may grant an extension for up to 30 days. In unusual cases if circumstances warrant, the E&G Exam Group Manager may grant an additional extension of time. Such approval and the reason for granting the additional extension must be documented in the Form 9984, *Examining Officer's Activity Record*.
- (3) If no Appeal is filed or if the estate sends an untimely post-marked protest, the examiner shall deny or terminate the election 15 days after the expiration of the 30 -day period or the extension period. The examiner must send a narrative to E&G Campus for denial or termination of the IRC § 6166 election along with a copy of the Letter 950-J. The examiner shall instruct E&G Campus to send Letter 6335-F by certified mail, return receipt requested. The Letter 6335-F should be based on the existing IRC § 6166 figures. Since the reason for the termination is determinative of the termination date, the narrative shall set forth the reason for the termination. For example, if the termination is the result of a sale or other disposition that equals or exceeds fifty percent of the closely-held business, the date of the sale or other disposition shall be included in the narrative.
- (4) If the estate submits a protest to request Appeals consideration, E&G Exam will date stamp the protest, verify the protest was filed timely and document the Form 9984. If the estate submits a timely filed protest containing new IRC § 6166 issues, new arguments or new information with the request for Appeals consideration, the examiner shall consider the information and determine whether to revise the examiner's position (i.e. qualification allowed). The examiner shall prepare a response to the protest that includes the determination reached. The examiner shall send the response to the protest to the estate and include a copy in the case file.
- (5) If after considering the protest, the examiner agrees that the estate is entitled to the IRC § 6166 election, the examiner will follow the agreed examination case closing procedures and notify E&G Campus to continue the IRC § 6166 election, with any adjustments that are agreed.

- (6) If after considering the protest, the examiner still does not agree with the estate's position, the examiner will prepare a separate IRC § 6166 auxiliary file containing all the documents needed by Appeals, see subsection 11 below, to consider the estate's IRC § 6166 appeal. The examiner shall not establish AIMS controls on this IRC § 6166 auxiliary file. E&G Campus will continue to monitor and control the IRC § 6166 account. Notify E&G Campus by secure e-mail that a protest has been forwarded to Appeals so that the Letter 6335-F is not sent prematurely.
- (7) The examiner should document on Form 3198 that the case being closed includes an unagreed IRC § 6166 issue on Form 3198 and request expedite processing due to a possible appeal. E&G Exam shall follow the normal case closing procedures for agreed or no change cases for the non-section 6166 issues. E&G Campus will adjust its IRC § 6166 billing when the TC 300 posts for Agreed Tax Change cases, or will continue current IRC § 6166 billing for No Tax Change cases. Final billing adjustments will occur when the agreed IRC § 6166 qualification issue is resolved. Before closing the case out, E&G Exam shall create the auxiliary file described in subsection 11 below.
- (8) If less than 6 months remain on the statute, E&G Exam may close out a No Change Examination after alerting E&G Campus to the unagreed IRC § 6166 issue. Meanwhile, the examiner must set up an auxiliary file described in subsection 11 for the unagreed IRC § 6166 issue to await a response to the 950-J letter. The examiner must notify E&G Campus 45 days after Letter 950-J was mailed if a protest is received or if the 30-day period has expired without a protest. After the procedures described in items (1) through (7), above, have been completed, the auxiliary file will be forwarded to Appeals within 30 days from the postmark date of the protest letter. If a protest was not received, E&G Campus will follow normal case disposition procedures.
- (9) E&G Exam shall call or send a fax to the person at E&G Campus who has the IRC § 6166 billing file. Explain that a short statute No Change case is being closed out of the group with an unagreed IRC § 6166 qualification issue.
- (10) The statute expiration date has no effect on the unagreed IRC § 6166 qualification issue.
- (11) The auxiliary § 6166 case file shall contain copies (or originals where appropriate) of:
  - A. Pages 1, 2, and 3 of the Form 706 and the schedules related to the closely held business,
  - B. Power of Attorney information,
  - C. The Examining Attorney's notes and report on the IRC § 6166 qualification issue, plus any other documents that affect the IRC § 6166 qualification,
  - D. The IRC § 6166 election statement,



- E. Form 4349,
  - F. Any Forms 4768,
  - G. All correspondence between the Service and the Taxpayer relating to the election,
  - H. Any supplemental 706 returns that were filed,
  - I. Any state estate or inheritance tax returns that were filed, if payment of state death taxes was deferred or interest on state death taxes is being allowed or claimed as a deduction, together with state payment information,
  - J. Form 9984,
  - K. Letter 950-J,
  - L. Protest from the taxpayer, and;
  - M. Examiner's response to the Protest.
- (12) The IRC § 6166 auxiliary file will be forwarded to Appeals using a Form 3210 transmittal that is notated with the type of case as IRC §6166 case as "IRC § 6166 – Qualification Case" or "IRC § 6166 – Termination Case" with no AIMS controls. The Form 3210 shall also be notated with the following language: "This is an emerging issue. Please check the Appeals Technical Guidance issue locator on the Appeals webpage for further information." The examiner will close the agreed (or No Change) examination case file separately following normal procedures.
- (13) E&G Exam shall forward the protested IRC § 6166 auxiliary file within 30 days from the postmark date of the protested letter to the Office of Appeals for the state of the decedent's last domicile using the Case Routing List-Appeals website, with the understanding the case may be transferred to another Appeals office based on Appeals inventory needs.

### **Section 18. Examined Return - Unagreed IRC § 6166 Qualification and Unagreed Tax Issues**

- (1) If the return is examined by E&G Exam and the examiner assigned to the case determines the estate is not eligible to make the IRC § 6166 election or has terminated the election, the examiner will prepare Letter 950-J, *Preliminary Internal Revenue Code § 6166 Determination Letter*, denying or terminating the IRC § 6166 election. The E&G Exam Group Manager will issue the 950-J preliminary determination letter denying or terminating the election by Certified Mail. The Letter 950-J must be issued separate from any other 30-day letter or 90-day letter that may be issued with respect to the regular examination

unagreed issues. E&G Exam will send a copy of the Letter 950-J to E&G Campus.

- (2) The estate has 30 days from the date of the Letter 950-J to appeal the IRC § 6166 determination. The E&G Exam Group Manager may grant an extension for up to 30 days. In unusual cases if circumstances warrant, the E&G Exam Group Manager may grant an additional extension of time. Such approval and the reason for granting the additional extension must be documented in the Form 9984, *Examining Officer's Activity Record*.
- (3) If no Appeal is filed or if the estate sends an untimely post-marked protest, the examiner shall deny or terminate the election 15 days after the expiration of the 30-day period or the extension period. The examiner must send a narrative to E&G Campus for denial or termination of the election along with a copy of the Letter 950-J. The examiner shall instruct E&G Campus to send Letter 6335-F by certified mail, return receipt requested. The Letter 6335-F should be based on the existing IRC § 6166 figures. Since the reason for the termination is determinative of the termination date, the narrative shall set forth the reason for the termination. For example, if the termination is the result of a sale or other disposition that equals or exceeds fifty percent of the closely-held business, the date of the sale or other disposition shall be included in the narrative. When the regular examination unagreed issues are resolved, a final bill will be sent.
- (4) If the estate submits a protest to request Appeals consideration, E&G Exam will date stamp the protest, verify the protest was filed timely and document the Form 9984. If the estate submits a timely filed protest containing new IRC § 6166 issues, new arguments or new information with the request for Appeals consideration, the examiner shall consider the information and determine whether to revise the examiner's position (i.e. qualification allowed). The examiner shall prepare a response to the protest that includes the determination reached. The examiner shall send the response to the protest to the estate and include a copy in the case file.
- (5) If after considering the protest, the examiner agrees that the estate is entitled to the IRC § 6166 election, the examiner will follow the regular examination unagreed case closing procedures and will notify E&G Campus to continue the IRC § 6166 election, with any adjustments that are agreed.
- (6) If after considering the protest, the examiner still does not agree that the estate is entitled to the IRC § 6166 election, the examiner will prepare a separate auxiliary IRC § 6166 case file containing all documents needed by Appeals, see subsection 7, to consider the estate's IRC § 6166 appeal. The examiner shall not establish AIMS controls on the IRC § 6166 auxiliary case file. E&G Campus will continue to control and monitor the IRC § 6166 account. Notify E&G Campus by secure e-mail that a protest has been forwarded to Appeals so that the Letter 6335-F is not sent prematurely.

- (7) The auxiliary § 6166 case file shall contain copies (originals where appropriate) of:
- A. Pages 1, 2, and 3 of the Form 706 and the schedules related to the closely held business,
  - B. Power of Attorney information,
  - C. The Examining Attorney's notes and report on the IRC §6166 qualification issue, plus any other documents that affect the IRC §6166 qualification,
  - D. The IRC § 6166 election statement,
  - E. Form 4349,
  - F. Any Forms 4768,
  - G. All correspondence between the Service and the Taxpayer relating to the election,
  - H. The unagreed examination case report and computations,
  - I. Any supplemental 706 returns that were filed,
  - J. Any state estate or inheritance tax returns that were filed. If payment of state death taxes was deferred or interest on state death taxes is being allowed or claimed as a deduction, together with state payment information,
  - K. Form 9984,
  - L. Letter 950-J,
  - M. Protest from the taxpayer, and;
  - N. Examiner's response to the Protest.
- (8) E&G Exam shall forward the IRC § 6166 auxiliary file to Appeals independent of the unagreed protested regular examination case. In this situation, the Form 3210 transmittal will notate the type of case as "IRC § 6166 - Qualification Case" or "IRC § 6166 – Termination Case" with no AIMS controls. The Form 3210 shall also be notated with the following language: "This is an emerging issue. Please check the Appeals Technical Guidance issue locator on the Appeals webpage for further information." The examiner will further state there is an unagreed estate tax examination case being sent to Appeals separately. The examiner will close the protested regular examination case separately following normal unagreed case closing procedures.
- (9) E&G Exam shall forward the protested IRC § 6166 auxiliary file within 30 days from the postmark date of the protested letter to the Office of Appeals for the state of the decedent's last domicile using the Case Routing List-Appeals

website, with the understanding the case may be transferred to another Appeals office based on Appeals inventory needs.

### **Section 19. Advisory Bond/Lien Determinations**

- (1) Advisory receives lien package, as described in **Section 12(3)**, sets up an ICS case control.
- (2) The E&G Exam group will be responsible for sending lien packages to Advisory when the case has been assigned to the group for examination. When returns are accepted as filed or surveyed during classification, E&G Campus will be responsible for preparing and forwarding the lien package to Advisory. E&G Campus will hold the original tax return for 90 days once the lien package is sent to Advisory, in case additional information is needed.
- (3) Advisory shall contact the estate's executor or representative within 60 days of receipt of lien package and request the estate voluntarily provide a bond, or in the alternative an IRC § 6324A lien, to secure the deferred estate tax. If the executor or representative agrees to provide the bond or lien, proceed with processing procedures to get the bond or **lien recorded**. Send a copy of the lien agreement to E&G Campus for association with the IRC § 6166 file. Encumbrances **must** be checked to determine adequacy of collateral. The advisor may utilize sources such as Accurant, Secretary of State, UCC filings, etc. to verify encumbrances. It may be necessary to request the estate representative provide encumbrance information. Document the above action in the case history.
- (4) If the estate declines to provide a bond or lien, Advisory shall review all information available to it before requesting any information from the taxpayer. Advisory shall review the following:
  - A. The lien package provided by E&G Exam,
  - B. Any information that the IRS may have such as extension requests (Form 4768), compliance with current installment/interest payments, tax returns or tax compliance information with respect to the decedent (1040), the estate or trust (1041) and closely held business (1040, 1041, 1120, 1120s, 1065, 941's),
  - C. Any information available by public record or on the Internet, such as filings with the Secretary of State.
- (5) Advisory will determine what additional information is required to make a determination regarding whether security is required in that case.
- (6) Advisory shall send a letter to request any additional information needed to determine whether security should be required. The deadline for additional document request shall be kept to 30 days. If within the 30 day period, the estate

requests an extension of time, the Advisor may grant an extension for up to 30 days. Any additional extension must be approved by the Advisory Group Manager. Such approval and the reason for granting the additional extension must be documented in the case history.

- (7) Advisory shall determine whether a bond or lien should be required in a case based on a review and analysis of applicable factors listed below and any other pertinent information. This is not an exclusive list and no single factor will be determinative of whether to require security in any particular case.
- A. Duration and stability of the business: This factor considers the nature of the closely held business and of the assets of that business, the relevant market factors that will impact the business's future success, its recent financial history, and the experience of its management, in an effort to predict likelihood of its success and survival through the deferred payment period. This information may be found in the appraisal, financial statements, and SEC filings. Facts relevant to this factor are information regarding any outstanding liens, judgments, or pending or anticipated lawsuits or other claims against the business, if any; age of business; and continuity and stability of management. The estate may use a sworn affidavit or other probative documents to provide this information. When considering this factor, determine whether the decedent owned a majority interest in the business. If the decedent owned a minority interest, the financial information pertaining to the business may not be as relevant because the estate may not force distributions to pay the estate tax. In this case, consider whether other assets in the estate or other income are available to pay the estate tax.
  - B. Ability to pay the installments of tax and interest timely: This factor considers how the estate expects to be able to make the annual payments of tax and interest as due, and the objective likelihood of realizing that expectation. Facts relevant to this factor may include the nature of the business's significant assets and liabilities, type of debts (subordinated, related party, guaranteed, payment terms), and the business's cash flow (both historical and anticipated). An appraisal, the business' tax return, or SEC filings may provide this information.
  - C. Compliance history: This factor addresses the business's, estate's and decedent's history regarding compliance with all federal tax payment and tax filing requirements, in an effort to determine whether the business, its management and the executor respect and comply with all tax requirements on a regular basis. The relevance of the closely held business's filing and payment compliance is proportional to the estate's ownership interest and control of the business. This factor also addresses the estate's compliance history with respect to federal tax

payment and filing requirements. Review frequency of requests for extension of time to pay, amount, and ultimate payment.

- (8) Advisory shall fully document in the case file history:
  - A. The factors and information considered in making the determination,
  - B. A brief history outlining taxpayer's response to request for bond or lien, and;
  - C. A detailed explanation regarding why a bond or a lien was required in this case in order to protect the government's interest, and the amount of bond or lien required.
- (9) After Advisory has made its determination, Advisory will send the estate Letter 4283, Notification Regarding Internal Revenue Code Section 6166 Security Requirement. When preparing the letter, select the optional paragraph (1) to notify the estate that no bond is required; optional paragraph (2) to notify the estate that a bond is required after reviewing the information provided by the estate; or optional paragraph (3) to notify the estate that a bond is required when the estate did not provide the requested information within 30 days. If option (2) or (3) is selected, include the IRC § 6324A Lien Agreement, Form 13925, and Form 8821. If the estate provides a lien form other than Form 13925, Advisory will consult Area Counsel for the state of the decedent's domicile for approval of the lien form. If the designated agent on the Form 13295 or lien agreement is someone other than the executor, ensure Form 8821 is received. Fax a copy of the lien agreement and Form 8821, if applicable, to E&G Campus to associate with the file.
- (10) Maintain a copy of the Letter 4283 in the case file and schedule a follow up date in ICS.
- (11) In the case of any proposed bond, Advisory will consult with Area Counsel for drafting, if needed, and review of the bond agreement.
- (12) Area Counsel will also be consulted when unusual assets are pledged on the lien agreement, such as art or collectibles.
- (13) The Letter 4283 allows 30 days from the date of the letter to negotiate the bond or lien property. If the estate refuses to provide a bond or lien after Advisory sends Letter 4283 notifying the estate that a bond or lien is required, the Advisor will send the case to the Advisory Group Manager for preparation, selection of the appropriate optional paragraph, and issuance of a Letter 950-I – Preliminary Internal Revenue Code § 6166 Determination Letter. The Letter 950-I is the letter that notifies the estate of its right to appeal the preliminary determination. If the estate does not appeal within the time period, the IRC § 6166 election terminates. Send Letter 950-I by certified mail and maintain one copy in the case file, notating the date it is sent, also schedule a follow up date in ICS.

- (14) If decedent died before August 6, 1997, the estate should not be sent the 950-I letter because the estate does not have the right to appeal or go to Tax Court. Provide a narrative to the E&G Campus stating the reason for proposed termination and request the Letter 6335-F be sent.
- (15) Advisory will send a copy of the Letter 950-I to E&G Campus to associate with the file.
- (16) After the Letter 950-I is issued, the case will be controlled and monitored for expiration of the 30-day period by the Advisory Group Manager.
- (17) If within the 30 day period allowed in Letter 950-I the estate requests an extension of time to request Appeals consideration, the Advisory Group Manager may grant an extension for up to 30 days. In unusual cases if circumstances warrant, the Advisory Group Manager may grant an additional extension of time. Such approval and the reason for granting the additional extension must be documented in the case history.
- (18) If the estate does not appeal the preliminary determination within the 30-day period allowed in Letter 950-I, or as extended, or if the estate sends an untimely post-marked protest, Advisory shall terminate the election 15 days (to allow for mail time) after the expiration of the 30-day period or the extended period. Advisory must send to the E&G Campus a narrative indicating that the time for appeal has expired and that the account should be accelerated. Advisory shall instruct E&G Campus to send Letter 6335-F to the estate, certified mail, return receipt requested. E&G Campus will compute interest on the Letter 6335-F, 30 days from the date of the Letter 950-I, and will prepare the Letter 6335-F showing the total balance on the account and all additional interest.
- (19) If the estate requests Appeals consideration, Advisory will date stamp the protest and document in the case file history that the protest was received and forward the protest letter and the following to Appeals 30 days from the postmark date of the protest letter:
  - A. Letter 4283,
  - B. Documentation considered in analyzing whether the bond or lien was required,
  - C. Letter 950-I,
  - D. Case file history, and;
  - E. Any pertinent correspondence with the Taxpayer.
- (20) If the estate submits a protest containing new IRC § 6166 related issues with its request for Appeals consideration, Advisory shall determine the validity of the new issue. If Advisory disagrees with the estate on the new issue, it shall prepare a response to the protest which includes the determination reached on

the new issue. Advisory shall send the response to the protest to the estate and include it in the package to be transmitted to Appeals.

- (21) Prepare Form 3210 forwarding case to Appeals notating "Type of Case IRC § 6166 – Termination Case, Lien Determination – This is an emerging issue. Please check the Appeals Technical Guidance issue locator on the Appeals webpage for further information". Advisory will route their protest cases based on the state in which the decedent was last domiciled using the case routing list on the Appeal's website, <http://appeals.web.irs.gov/APS/bystate2.htm>, with the understanding the case may be transferred to another Appeals Officer based on inventory needs. Notify E&G Campus by secure e-mail that a protest has been forwarded to Appeals so that the Letter 6335-F is not sent prematurely.
- (22) If no new issues are raised by the estate in its request for Appeals consideration, Advisory will not prepare a response to the protest. Appeals will consider the documentation in the case file history containing all prior analysis.
- (23) The Appeals Office will send the case file with the Appeals Case Memorandum (ACM) to Advisory once a decision is final, so that Advisory can proceed. Advisory shall notify E&G Campus if the election under IRC § 6166 is terminated, and shall instruct E&G Campus to send Letter 6335-F certified mail, return receipt requested. If Appeals allows the election to continue, notify E&G Campus that Appeals has determined the estate is entitled to the election. If no response is received, Advisory will follow-up with Appeals in 90 days. Advisory may contact the Appeals' Account Resolution Specialist at (559) 456-5931 to locate case or update status.

## **Section 20. Advisory - Miscellaneous Documentation From Campus or Appeals**

Advisory will receive documentation from E&G Campus concerning IRC § 6166 payments or installment payments that have not been paid. E&G Campus is sending this information to be associated with the case file. E&G Campus will forward for informational purposes copies of billings and/or protest letters that are sent to Appeals. OI's will be maintained in ICS on accounts where informational documents are sent to Advisory from the E&G Campus.

- (1) This information should be used in considering creditworthiness of estate, necessity for a bond or lien, and/or necessary enforcement action.
- (2) Advisory may receive a courtesy investigation from the E&G Campus to collect non-deferred tax, penalties and interest. The following actions should be taken:
  - A. Contact the estate representative and demand payment of the non-deferred tax. Provide a deadline for payment and document the ICS history.



- B. If payment is not made send final demand letter (Letter 1058) for only the non-deferred portion of tax due plus penalties and interest.
  - C. After expiration of the 30 day final demand letter the advisor will issue a courtesy investigation to initiate enforced collection (such as levy or suit referral) as necessary against assets or initiate such action themselves, as appropriate. The Advisor will coordinate collection action with the revenue officer involved.
  - D. If full payment is still not made, the IRC §6321 lien should be recorded by the field revenue officer to attach to the remaining undistributed probate property for the non deferred portion of the estate tax due. Document the ICS history concerning your action to protect the Government's interest. Revenue Officers must comply with collection due process rights in IRM 5.1.9.3 when utilizing the IRC §6321 lien.
  - E. If estate is unable to pay the non-deferred tax this is an indicator/factor that the estate may be financially unstable. At this time the advisor will conduct an evaluation of the current assets, review time remaining on the IRC § 6324(a) lien (or any other lien in effect such as the IRC § 6324A lien) and determine if the Government is adequately secured for the remaining tax due during the duration of the deferral period.
  - F. If the advisor determines the Government is not adequately secured for the remaining portion of deferred estate tax, Letter 4283 will be sent to the executor/designated agent. Follow procedures in Section 19.
  - G. If estate still does not pay non-deferred portion of tax and refuses to provide a lien or bond on the IRC § 6166 portion, issue letter 950-I and proceed with acceleration of the deferred portion of tax.
  - H. Revenue Officers may continue collection actions on the non-deferred portion of estate tax while the deferred portion is being accelerated.
- (3) Advisory will also receive documentation from the E&G Campus when estates are delinquent in paying installments timely, Advisory should review the account to determine if a lien or bond has been secured. If a lien or bond has not been secured a re-evaluation of collection risk is appropriate action to ensure the Government is adequately protected. This information and advisor actions must be documented in the ICS history because a pattern of delinquency is a factor in determining credit risk.
- (4) Advisory will receive from the E&G Campus documentation indicating installment payments have not been made and the acceleration of the tax due is in process. Advisory must upon receipt review the account and determine if a lien or bond has been secured. Advisory should review, recommend and document the ICS history regarding the most appropriate collection action based on information in their lien file. Considerations to be addressed: (1) what assets remain that are

encumbered by the IRC § 6324(a) lien (2) are there specific assets pledged on the IRC § 6324A lien, (3) equity in assets (4) is there a bond, (5) does a seizure or levy need to be done on pledged assets, and (6) should a suit referral be completed. Advisory shall take such action or coordinate enforced collection action.

- (5) Advisory will receive from the E&G Campus documentation indicating the case is in litigation contesting the termination of the election. The collection statute is not suspended during the time the case is in litigation. Advisory should determine based on the facts and circumstances of the case whether collection should be pursued during litigation and handle the case accordingly. If Advisory determines collection should be pursued during litigation, before collecting Advisory must contact the chief counsel attorney assigned to the case.
- (6) When Appeals makes a determination that an estate may continue to elect an IRC § 6166 installment election, the entire case file, including the original return shall be sent to Advisory to copy information necessary for bond or lien determination. This file should be copied within 30 days, and the return should be sent to E&G Campus to complete the installment account set-up.
- (7) Advisory will be responsible to set follow-ups through ICS to check status of cases that were sent to Appeals for resolution either by utilizing the Appeals Account Specialist or contacting the E&G Campus to determine if they have received the Appeals Case Memorandum (ACM) from Appeals.

## **Section 21. Advisory - Monitoring Accounts During The Deferral Period**

- (1) Informational documents received from the E&G Campus should be reviewed within 30 days of receipt. The advisor's evaluation of impact or harm to the Government's interest should be documented in the ICS history. This documentation may dictate frequency of monitoring an account.
- (2) Notice of late installment payments, preliminary IRC § 6166 election terminations or extensions to pay on IRC § 6166 installment payments should be considered as a factor in lien determination and monitoring. Accounts should be re-evaluated if any of the above actions occur.
- (3) Encumbrances **must** be checked to determine adequacy of collateral. The advisor may utilize sources such as Accurint, Secretary of State, UCC filings, etc. to verify encumbrances.
- (4) All IRC § 6166 accounts will be re-evaluated six years into the deferral period. Schedule a follow up through the ICS system. Advisors will consider the factors described in Section 19(7) and should also look at subsequent actions below to determine if additional action should be taken to protect the Government's interest
  - A. What assets have been distributed?

- B. Has the estate distributed, sold, exchanged, or otherwise disposed of 50 percent or more of the value of the estate's interest in the closely held business?
  - C. What assets have been discharged or subordinated?
  - D. Has the estate made installment payments timely and in the full amount due?
  - E. Has the estate requested extensions to pay installments?
  - F. Has the estate defaulted on other financing?
  - G. Has the estate made additional payments toward the tax liability?
  - H. Does the closely held business appear to be financially stable and able to make future installment payments?
  - I. Is the estate in compliance with filing and paying requirements?
- (5) Annual monitoring, considering the above factors should be conducted as the Service nears expiration of the IRC § 6324(a) lien. Each year that Advisory conducts a review, the Advisor must document their analysis and recommendations to adequately protect the Government's interest. As the Service gets closer to expiration of the IRC § 6324(a) lien, the advisor must consider securing a "replacement lien" (IRC § 6324A lien or bond) to cover the additional deferral period and the amount of deferred tax due in order to protect the Government's interest.
- (6) Advisory **must be aware** that if a determination is made that the Government is at risk of not collecting the remaining tax due, appropriate action (for example, a bond or lien or enforced collection action) **must be taken and completed prior to expiration of the IRC § 6324(a) lien**. Consideration must be given to allow time for the executor to exhaust any allowable appeals and potential litigation time if the estate petitions the Tax Court under IRC § 7479. If the account is accelerated, this process generally requires a minimum of six months to be completed. Timeframes of acceleration, appeals and litigation must be considered in order to complete collection actions prior to expiration of the IRC § 6423(a) lien.
- (7) If the advisor determines that a lien is required the advisor will send the executor Letter 4283. Follow procedures in Section 19.
- (8) In consideration of accounts where the estate has been in compliance with timely payment of installments, as the Service gets closer to expiration of the IRC § 6324(a) lien, the advisor must consider securing a "replacement lien" (IRC § 6324A lien or bond) to cover the additional deferral period and the amount of deferred tax due in order to protect the Government's interest.
- (9) Advisory must ensure annually that the value of the collateral securing the lien is equal to the outstanding IRC § 6166 balance on the account. In accordance with the Form 13925, the designated agent is required to send current valuation

information annually with respect to the pledged property listed in the agreement. If the executor has provided an IRC § 6324A lien, Advisory must review the annual valuation information report from the designated agent to confirm that the value of the collateral securing the lien is equal to the outstanding IRC § 6166 balance on the account. If the financial information is not received from the designated agent, the Advisor may contact the designated agent to request that information.